

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) No. 09-5022-CR-SW-RED
)
ROBERT JOOS,)
)
) May 18, 2010
 Defendant) Springfield, Missouri

SENTENCING
BEFORE THE HONORABLE RICHARD E. DORR
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF:

MR. JAMES J. KELLEHER
ASSISTANT UNITED STATES ATTORNEY
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FOR THE DEFENDANT:

PRO SE

STAND-BY COUNSEL:

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Proceedings reported by stenography; transcript produced by
Computer.

1 USA v. ROBERT JOOS

2 CASE NO. 09-5022-CR-SW-RED

3 MAY 18, 2010

4 SENTENCING

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6 THE COURT: I thought Mr. Joos had stand-by counsel.

7 MR. JOHNSON: I didn't know if you wanted me at
8 table.

9 THE COURT: Why don't you sit at the table.

10 I know that you've indicated you want to represent
11 yourself and I agreed to that, but just in case we have any
12 situation where we need stand-by counsel, I'm going to ask him
13 to sit there. He's not going to be speaking for you here,
14 you'll get to speak, but that's why I had him sit there.

15 THE DEFENDANT: Yes, Your Honor. I'm not going to
16 be able to represent myself because he never turned over a
17 copy of his to file to me. I've not been allowed adequate
18 time to review what the prosecutor showed me last week on
19 Wednesday and Thursday. I need copies of 100 pages out of his
20 discovery. I found in his trial file over 50 pages that
21 weren't in the discovery which he claimed that Mr. Johnson
22 here gave back to him.

23 THE COURT: All right.

24 THE DEFENDANT: I have a -- I had a motion for
25 sanctions and sentencing delay that I sent in on -- this is

1 May 2nd when I realized that nobody was complying with your
2 court order of April 14th and, like I said, I don't know
3 what's in my file because I never got a copy of it from
4 Johnson. There's no way I can be prepared for this. Plus, I
5 still can't get my exculpatory evidence into the courthouse
6 without getting by the marshals with it. They continue to
7 take my paperwork away from me. The last time they took my
8 paperwork the bomb letter disappeared which was exculpatory
9 evidence which I saw again in the discovery when we did last
10 week but I can't get a copy of it from the prosecutor.

11 THE COURT: Okay. Here's what we're going -- we are
12 going to have a sentencing today. And I realize that there
13 are a lot of things that you feel aren't right and that you
14 need to have heard but I've read -- you filed a lot of stuff
15 between the trial and now and in all fairness, almost all of
16 that deals with your disagreement with what happened at trial,
17 and today we're not here to retry the case. We made our
18 decisions and you're going to have a chance to appeal and at
19 the end of today I'll have the clerk file a notice of appeal
20 for you if that's what you want. But you're going to have a
21 chance to appeal and deal with that with the Court of Appeals
22 but today all we're talking about is your sentencing.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: We're not talking about whether or not
25 the search was legal, whether or not there was probable cause.

1 I know you have issues with that but that you'll have to deal
2 with on appeal.

3 THE DEFENDANT: But my objection at sentencing, Your
4 Honor, is that how can I prepare when Johnson wouldn't give me
5 a copy of my file? How can I prepare when I can't get copies
6 of about 100 pages out of the over 3,000 that I saw briefly
7 last week that the prosecutor showed me but wouldn't give me
8 copies of anything? Prepare for sentencing, I need to be able
9 to -- and I also didn't know anything about -- I wasn't
10 informed of any of this stuff here, the claims they're going
11 to use today, KKK roster, some kind of DVD, a picture of a
12 machine gun and some other stuff here that I wasn't informed
13 of any of that.

14 THE COURT: Okay. Let's take it a step at a time
15 here. So let me talk to the -- we'll go through our procedure
16 here. The first question I have is for the prosecutor and
17 then I'll be back to you.

18 Have you received a copy of the presentence
19 investigation report and had a chance to review it?

20 MR. KELLEHER: Yes, Your Honor.

21 THE COURT: Do you have any objections to it?

22 MR. KELLEHER: No, Your Honor.

23 THE COURT: Okay. Now, Mr. Joos, this is the
24 presentence investigation report. You've got a copy of that,
25 right?

1 THE DEFENDANT: Yes, sir, and I filed 16 pages of
2 objections to it.

3 THE COURT: I understand. And they're attached to
4 it. I've read those. But I take it by that, then, you've had
5 a chance to review it? You filed the objections to it so you
6 must have reviewed it?

7 THE DEFENDANT: Yes, I did.

8 THE COURT: Okay. And I see that you have
9 objections there. Now, I will say to you, I have -- I have
10 read those objections and most of them deal with matters that
11 you disagree with the trial. You'd probably agree with me on
12 that, wouldn't you, about the search and seizure, about
13 evidence at trial and different things like --

14 THE DEFENDANT: Yes, sir, denial of counsel is a big
15 one.

16 THE COURT: Okay. I'm just telling you those are
17 matters for appeal, not for sentencing. So I've read through
18 that and the objections that you have filed, the written
19 objections, I'm denying those. So mainly I'll say two things:
20 I'm denying those that are objections to what happened at
21 trial. Some of those you are correcting and adding
22 information that you disagree within the report where you say
23 it should be different words or something. You know what I'm
24 talking about where you say some of this is misrepresented and
25 should be stated differently?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And those aren't really objections,
3 they're just -- I consider that to be additional information
4 for me to consider, and I will consider that. I understand
5 what you've said there on those. But to the extent that
6 you've objected to the report, that's denied.

7 THE DEFENDANT: Well, there's also hearsay on there
8 which is not supposed to be considered, and there's a over
9 ten-year-old conviction which is not supposed to be
10 considered.

11 THE COURT: Well, in terms of your conviction, I
12 believe it -- I'm not sure if we have more than one that gets
13 it -- the ten-year-old get to have any significance on
14 sentencing?

15 MR. KELLEHER: It doesn't, Your Honor. Well, it
16 does in terms of criminal history points but not -- I don't
17 believe any -- well, there were criminal history points
18 assessed because I think he was still on parole at least --
19 yeah.

20 THE COURT: Which one is it? One of you tell me,
21 which one is it?

22 THE DEFENDANT: It's a concealed carry charge that's
23 over ten years old and the U.S. Supreme Court --

24 THE COURT: Which paragraph --

25 THE DEFENDANT: The sentencing guidelines say you

1 cannot use --

2 THE COURT: Hang on just --

3 THE DEFENDANT: -- for sentencing purposes a
4 conviction that's over ten years old.

5 THE COURT: Hang on just a second.

6 MR. KELLEHER: It's Paragraph 55, Your Honor.

7 THE COURT: Okay. So I'll ask probation about that.
8 I know the ten-year-old comes in on evidence at trial but what
9 about in terms of the three points that are added here?

10 PROBATION OFFICER: Your Honor, the sentencing date
11 for the Paragraph 55, the sentencing date was April 4th of
12 1997. It's actually -- because it's a three-point conviction,
13 it's within the 15-year requirement under 4A1.2(e)(1).

14 THE COURT: Let me just look at that. What was that
15 cite again?

16 PROBATION OFFICER: 4A1.2(e)(1) where it talks about
17 applicable time period.

18 THE COURT: Okay. Mr. Joos, here's what it says at
19 that cite, "Any prior sentence of imprisonment exceeding one
20 year and one month that was imposed within 15 years of the
21 defendant's commencement of the instant offense is counted."

22 THE DEFENDANT: Isn't that restricted also to
23 violent offenses?

24 THE COURT: No.

25 THE DEFENDANT: Isn't there a clause in there that

1 says violent offenses only?

2 THE COURT: This is for terms of computing your
3 criminal history. So that's the reason for that. So if you
4 have an objection -- it's okay to object because this is all
5 part of the record for appeal so --

6 THE DEFENDANT: Yes, sir.

7 THE COURT: I gather you're still objecting to it
8 and that's denied.

9 THE DEFENDANT: Yes, sir. I'm objecting to all the
10 hearsay that's in there also.

11 THE COURT: All right.

12 THE DEFENDANT: And I'm also objecting to not being
13 informed that under 12 U.S.C. 851 and 962(2)(b), Court was
14 required to inform me after conviction and before sentencing
15 that any challenge to a prior conviction must be made prior to
16 sentencing with written response of a prosecutor and it said
17 the Court shall hold a hearing prior to sentencing on the
18 issue of findings of fact and conclusions of law and then if
19 it's denied it must be -- the sentencing must be delayed until
20 appeal is heard by the Eighth Circuit.

21 THE COURT: That's certainly doesn't sound like a
22 United States Code statute to me. Are you saying --

23 THE DEFENDANT: I ran across it by accident when I
24 was researching cases, 12 U.S.C. 851 962(2)(b).

25 THE COURT: It wouldn't be worded like that telling

1 the Court what to do, I don't think.

2 MR. KELLEHER: No. I think he might be referring to
3 Title 21, the prior drug convictions, perhaps, but I'm not
4 familiar of any provision of law. The fact of the matter is,
5 the convictions were already determined to be valid by the
6 Court.

7 THE COURT: Mr. Joos, what's your cite again?

8 THE DEFENDANT: It's 12 U.S.C. Section 851 and 962
9 (2) (b) .

10 THE COURT: Got it, Bryan?

11 LAW CLERK: Yeah.

12 THE COURT: Can you call it up or just go copy it?
13 Get the book.

14 THE DEFENDANT: I'm not sure on the (2) (b) because
15 on the computer it's hard to tell if there's another --

16 THE COURT: All right. We'll get the book,
17 Mr. Joos. I got a feeling 12 United States Code doesn't deal
18 with this but we'll see.

19 Any other objections you want to state?

20 THE DEFENDANT: Well, my objection to not having a
21 copy of my file which this Court ordered Johnson to turn over
22 to me on the 14th of April and an objection did not -- having
23 any response from anybody on my motion for sanctions that
24 was -- I don't know if the Court got it. I didn't get any
25 notice from the court clerk like I normally do. It was sent

1 in on the 2nd of --

2 THE COURT: Well, sanctions won't have anything to
3 do with your sentence.

4 THE DEFENDANT: -- May. That was my objection to
5 not having a copy of my case file, which I still don't have.
6 I never got a copy of the case file.

7 THE COURT: What is it in your case file that you
8 think you need to respond to this presentence investigation
9 report?

10 THE DEFENDANT: Well, I don't know that until I see
11 my case file.

12 THE COURT: Okay.

13 THE DEFENDANT: That's the problem. That's the same
14 problem with discovery.

15 THE COURT: All right.

16 THE DEFENDANT: All this stuff on discovery, I've
17 got 50 missing pages that the prosecutor had in his trial file
18 that was not in the discovery file, apparently, which means he
19 didn't turn over all discovery.

20 THE COURT: Okay.

21 THE DEFENDANT: So --

22 THE COURT: That objection will be denied. So we're
23 going to go forward now with the sentencing.

24 And based on the presentence investigation report,
25 the --

1 THE DEFENDANT: I'm not finished with objections,
2 sir.

3 THE COURT: Well, what other objection do you have?

4 THE DEFENDANT: Okay.

5 THE COURT: Don't repeat what you filed with me
6 because I've already --

7 THE DEFENDANT: First objection is being shackled so
8 I can't handle the paperwork.

9 THE COURT: Okay. That's denied.

10 THE DEFENDANT: The second being threatened by
11 another inmate downstairs in the holding cell where they've
12 got violent inmates put in with protective custody which they
13 recognize as soon as they see that red armband.

14 THE COURT: Okay.

15 THE DEFENDANT: A big guy all padded up that
16 threatened me and a kid in there with violence and --

17 THE COURT: Okay. Well, you're okay now, so that's
18 denied.

19 THE DEFENDANT: My other objection is not being able
20 to bring my exculpatory evidence. I've got 11 testimonials
21 that I had no way to get into the court because I can't get
22 them past the marshals.

23 THE COURT: And I understand, but we're not trying
24 your case today.

25 THE DEFENDANT: That's what I wanted to present

1 today. But how could I present it when I haven't been allowed
2 time to prepare to defend myself in this sentencing and
3 present the sentencing issues?

4 THE COURT: I know -- I may be wrong about this but
5 I'm going to deny that objection.

6 First of all, Title 12, Mr. Joos, deals with banks
7 and banking so it's not going to have anything to do with you
8 and the Court.

9 THE DEFENDANT: Well --

10 THE COURT: I know you said you found it by
11 accident but I'm thinking maybe --

12 THE DEFENDANT: I was running case law and I saw it
13 and I punched it up and that's what it said.

14 THE COURT: I'm afraid they have a mis-cite there
15 for you. Okay. So that was your objection, right?

16 THE DEFENDANT: Right. The other objection to not
17 having my case file. Mr. Johnson --

18 THE COURT: I just ruled on that a little minute
19 ago.

20 THE DEFENDANT: Yeah, but you asked me what was in
21 the file and I just recall --

22 THE COURT: You told me you didn't know.

23 THE DEFENDANT: My motions were in there, should
24 have had a copy of the jury instructions, which I've never
25 seen, should have had a copy of -- he had a copy, because I

1 saw it here at trial, of the so-called bomb letter that they
2 keep using against me as an exhibit but which nobody's ever
3 looked at. It's exculpatory evidence.

4 THE COURT: All right.

5 THE DEFENDANT: It was also in the discovery which I
6 tried to get a copy of which he did not give to me.

7 THE COURT: All right. Mr. Joos, I know -- I know
8 that you're emotionally involved here because you're the one
9 that's got everything at stake and I understand that, but
10 we're not retrying the case today. I'm sorry, but we're not
11 retrying the case. That's what you have to do on appeal. And
12 they're not going to retry it but at least you can claim
13 your --

14 THE DEFENDANT: But the bomb letter has exculpatory
15 evidence in it.

16 MR. KELLEHER: Your Honor, the bomb letter was
17 admitted at trial.

18 THE COURT: I know, it's evidence at trial, it'll be
19 part of the record.

20 But, Mr. Joos, we're going to move on because we are
21 going to have --

22 THE DEFENDANT: I'd also bring that up at
23 sentencing. Anything which might show the Court that I'm not
24 guilty of any of this stuff or would show that I should
25 receive a lesser sentence I should be able to present to the

1 Court.

2 THE COURT: Okay. We're going to --

3 THE DEFENDANT: Which I have not been allowed to do.

4 THE COURT: You're going to have a chance to speak
5 for yourself here about the sentence but we are moving on
6 today.

7 So based on the guidelines that we just talked about
8 and the analysis in the guidelines, the total offense level
9 for calculation of the guidelines is 22, the criminal history
10 category is 4. So by statute your sentence to custody on
11 Count 1 can be not more than ten years, your sentence to
12 custody on Count 2 can be not more than ten years, supervised
13 release by statute under Count 1 is not more than three years,
14 Count 2 not more than three. The guideline range is 63 to 78
15 months for custody and two to three years for supervised
16 release.

17 Now, I'll first hear from you, Mr. Joos, as to what
18 you think should be the appropriate sentence and any matters
19 of what they call allocution or anything you want to say for
20 yourself that you think is pertinent to what the sentence
21 should be and then I will hear from the government.

22 Now, Mr. Joos, statutory factors that I am to
23 consider deal with the nature and circumstances of the
24 offense, the history and characteristics of you, the
25 defendant, consideration of the seriousness of the offense,

1 consideration to promote respect for the law and provide just
2 punishment for the offense, consideration of adequate
3 deterrence to other people and you from this kind of conduct,
4 consideration of protection for the public and consideration
5 of whether you need an education or vocational training or
6 medical care.

7 Now, those are all considerations I make. You can
8 comment on any of those you want to because those will be
9 considerations I'll be making. So let's hear from you as to
10 what you think is the appropriate sentence.

11 THE DEFENDANT: Start with medical. I've been for
12 six months trying to get medical treatment for illnesses and
13 injuries. I can't get any Court or the sheriff to get me to a
14 competent physician to have something done about my pinched
15 nerves in the back and my neck. So that's the first thing,
16 since you brought that up.

17 I'm going to have to go slow here because I can't
18 handle these papers very well with these on.

19 THE COURT: Okay.

20 THE DEFENDANT: The second thing is I've got 11
21 testimonials from attorney, doctor, a widow lady, people who
22 have associated with the church over the years that I've
23 helped out who sent me letters, you know, for my benefit, but
24 since the only piece of exculpatory evidence I had from trial
25 was the bomb letter, so-called bomb letter -- that's what I

1 wanted to show the Court what they were using --

2 THE COURT: I'm familiar with the bomb letter.

3 THE DEFENDANT: Sir?

4 THE COURT: I remember the bomb letter from trial.

5 Are you saying you've got 11 testimonials there right now?

6 THE DEFENDANT: I couldn't bring the stuff with me.

7 Like I said, I wasn't prepared for this today because I

8 thought this was a motion hearing because of the motions I

9 filed in which I explained to the Court --

10 THE COURT: Okay. I understand that part. Are you

11 telling me --

12 THE DEFENDANT: You ordered the Court -- you ordered

13 the prosecutor to show me what he had. Well, all he showed me

14 was almost 3,000 pages of discovery, over 90 percent of which

15 had nothing to do with me.

16 THE COURT: Okay.

17 THE DEFENDANT: Which I had to go through, spend --

18 THE COURT: You and I need to have a little give and

19 take. I get to talk a little bit and you talk a little bit.

20 Okay?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Let's talk about testimonials. You say

23 you had them but chose not to bring them because you thought

24 this wasn't your sentencing today?

25 THE DEFENDANT: I didn't bring them because I didn't

1 have any way to get them into the court without them being
2 taken by somebody between here and there because I don't have
3 this Court's order that they're not to take my paperwork out
4 of my sight. That's the only thing I've asked for the Court
5 to do. Not that they can't search the stuff. I don't care if
6 they search it. But I've got a transcript in which the
7 sheriff of McDonald County testified on my behalf.

8 THE COURT: Okay. I'm not interested --

9 THE DEFENDANT: -- an attorney testified on my
10 behalf, and I have --

11 THE COURT: That must have been in some different
12 case.

13 THE DEFENDANT: That's the underlying felony which
14 is driving without a license. That's public record.

15 THE COURT: Is that where these --

16 THE DEFENDANT: If the Court takes judicial notice
17 of that public record --

18 THE COURT: Is that where the testimonials come
19 from, that other case?

20 THE DEFENDANT: That's one -- two of them. I have
21 testimonials from nine more people.

22 THE COURT: Do they come from other cases?

23 THE DEFENDANT: They have nothing to do with other
24 cases. These are nine people that wrote letters of
25 recommendation for reduced sentence that -- I had a stack of

1 stuff like this I should have brought with me but I didn't
2 know how to get it here without getting it confiscated.

3 THE COURT: Well, all right.

4 THE DEFENDANT: Again --

5 THE COURT: I take it -- I understand. But you made
6 a choice --

7 THE DEFENDANT: I should have had 30 more days since
8 I don't have a copy of my counsel's file, which the Court
9 ordered him to give me. I don't have copies of --

10 THE COURT: Mr. Joos?

11 THE DEFENDANT: -- of numerous things that
12 the prosecutor showed me but wouldn't let me have copies of --

13 THE COURT: Okay. We're talking about --

14 THE DEFENDANT: -- so I explained to the Court
15 what's in there.

16 THE COURT: -- testimonials. Testimonials. Okay?
17 That's all we're going to talk about for the next minute or so
18 here. Now, as I understand it, you say you have some letters
19 and things from people that are suggesting you should have a
20 lesser sentence?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And you didn't bring those because you
23 felt like procedurally they'd be taken away from you and you
24 might lose them?

25 THE DEFENDANT: Yes, sir, just like the only other

1 exculpatory evidence I had was taken away from me.

2 THE COURT: Now, as I understand it, what did you
3 do, leave it over at the jail?

4 THE DEFENDANT: Yes, sir, it's at the jail.

5 THE COURT: Okay. So I can't help you on that
6 because you didn't talk to me or ask me about the procedure
7 and so I'll let you tell me about those testimonials today,
8 but we're not going to delay this trial for you to have more
9 time in regard to the testimonials.

10 THE DEFENDANT: I filed a half dozen motions with
11 the Court requesting that you order the marshals not to take
12 my legal paperwork, and cops, anybody else, out of my sight so
13 if they take something out, I can see it.

14 THE COURT: Well, I think I made a ruling on your
15 order, I can't remember exactly what it was, but I am saying
16 this -- do you really have something you want to say?

17 MR. KELLEHER: If you don't mind, Your Honor. I
18 can't help but notice Mr. Joos has a table full of papers in
19 front of him so I suspect that had Mr. Joos taken those with
20 him, they would probably be in front of him right now, but he
21 opted not to do so for reasons unclear to me.

22 THE DEFENDANT: These papers are the motions which I
23 filed with the Court --

24 THE COURT: Okay. Mr. Joos --

25 THE DEFENDANT: -- to delay the sentencing for 30

1 days so I could prepare for trial -- prepare for sentencing.

2 THE COURT: Mr. Joos, tell me about the testimonies.
3 I'll give you time to tell me who said what right now. If you
4 don't do it, we're going to move on to something else.

5 THE DEFENDANT: Okay. No. 1, Attorney Hanson,
6 McDonald County testified at the DWL -- she tried to testify
7 in my defense at the trial and the judge would not allow her
8 to. The whole trial hinged, just like this trial, upon --

9 THE COURT: Just tell me what they said. I'm not
10 going to retry those other cases. Tell me what the people
11 said that was good about you that you think I should know.

12 THE DEFENDANT: She said that every time she had a
13 poor client needed help, I would arrange for aid through the
14 church. She said that I've never been a danger or a threat or
15 harm to anyone. She said she believed that I had a valid
16 defense in the case because of raising the issue of driving
17 without license is business use of a public right-of-way and
18 has nothing to do with the right to travel, that my right to
19 travel is being denied, and she had reviewed my cases, could
20 find no fault in them. She testified, I believe, that she
21 didn't think it was fair that the Court was not allowing me to
22 present my testimony. And then the sheriff of McDonald
23 County, Rob Evenson, testified that when he would take me
24 places like to the dentist, he never even bothered to cuff me
25 up. I was wearing civilian clothes from the jail to the

1 dentist for an appointment. He'd leave the car, leave me in
2 it, never had any problem with me. Any time he needed to see
3 me he called me and I'd come into the jail and talk to him.
4 So I was not a threat or harm to anyone.

5 I'm just trying to briefly summarize because some of
6 these --

7 THE COURT: That's what I want you to do.

8 THE DEFENDANT: -- letters are like three and four
9 pages long. They said all the things I do to help people all
10 the time.

11 There's a widow woman down there who I helped by
12 taking a huge tree out of her yard. She was afraid it was
13 going to fall on her house. I helped her for over 15 years
14 off and on. She recommended that I be given a lesser
15 sentence.

16 Former scout master. I used to be assistant scout
17 master of the troop to Pineville, Missouri. The scout master
18 wrote a letter for me stating how I helped out with the Boy
19 Scouts and that he would never allow me around his son and his
20 nephew if he thought I was any danger to them. I helped out
21 with the camp-outs, I helped out with the training. For four
22 or five years I worked with him. This is all within the last
23 10, 15 years all this -- since I've lived in that county. I'm
24 not going back to the -- you've already seen the -- I don't
25 know if you've even looked at it, my achievement list of

1 things that predate my becoming a --

2 THE COURT: I've read all that.

3 THE DEFENDANT: Okay. Then there was the -- John
4 and Connie Arp (ph.). They wrote a letter. They live out
5 there near the church. They know that the church sells
6 property to anybody. There's an American Indian family living
7 on one of the properties right now. In the past sold to
8 Mexican-American families. So the whole racist lie being put
9 out by the media is just a bunch of garbage. It's not
10 verified by my record or what I do for people. We've -- both
11 the Mexican guy and his family and the Indian people have
12 worked for the church when they needed money, extra time.
13 Also, John Arp, when he needed help with money, we hired him
14 to do work on our vehicles and things because he had trouble,
15 lost his job and was having trouble.

16 There's also the testimony of Michael and Linda
17 Hopping (ph.) which also put in there what we've done to help
18 them and their relatives when they needed help. Basically,
19 the church has some land that we use to help poor people. You
20 know, a place for poor people to live, a place where they can
21 buy a place cheap and build something for themselves where
22 they don't have to rent for the rest of their lives. It's the
23 cheapest place you can live in all of McDonald County that
24 I've been able to find. And how I helped the Hoppings'
25 sisters. When they lost their jobs, they were allowed to live

1 on the property for free for six months until they found
2 another place they wanted to go. They were crippled up, they
3 didn't have any way to make a payment to anybody or rent or
4 anything so we let them use the buildings that were on the
5 property out there.

6 There was Dr. Smith who's known me since 1980 and
7 how I lived with his family and helped his family. He had
8 like five children at the time. Eventually had eight but when
9 I was there he had five young children, how I helped out with
10 the family, renovate his house. He was struggling, a guy with
11 that many children and his wife taking care of the kids and
12 not working.

13 There was, let's see, an elderly couple in Pineville
14 that I help out on a regular basis because they're too old and
15 crippled to do the work on their home so I help them out with
16 that. I've done that for several other people.

17 Let's see. There was one -- I have to do some
18 calculation in my head here, Judge. Excuse me a minute.

19 I think that was all the letters.

20 THE COURT: Okay.

21 THE DEFENDANT: Now, there was a lot of other people
22 that probably would've written a letter but they're so
23 terrified by cops, you know. Anybody that's on the list, you
24 know, they got my address book and things from the church,
25 next thing you know, they're coming around asking them all

1 kind of questions about me. People are -- for no particular
2 reason are just afraid they're going to be drug into something
3 that they have no idea what it is or what it's all about, just
4 like I've been drug into this by this guy Mahon. Had no idea
5 what he was into.

6 THE COURT: Okay. So we've talked about your
7 medical and we've talked about testimonials. Now, what else
8 would you like to talk about?

9 THE DEFENDANT: It'll take me a minute here to go
10 through my notes and see what I've got in here.

11 There's the issue of cruel and unusual punishment.
12 I've been in custody for over five years for driving without a
13 license is what this boils down to, refusal to pay a \$7.50
14 tax that I don't owe --

15 THE COURT: Now, you do understand, I can't do
16 anything about your state court sentence?

17 THE DEFENDANT: No. What I'm talking about is the
18 sentence that constitutes cruel and unusual punishment under
19 the law because the underlying case is so minor that piling on
20 more and more punishment is considered cruel and unusual
21 punishment by the U.S. Supreme Court. I have a whole list of
22 cases that I've looked up.

23 THE COURT: I understand there are cases on cruel
24 and unusual, but now I want you to understand, I'm going to
25 sentence you today not based on a DWI that you had but based

1 on this case --

2 THE DEFENDANT: That's DWL, sir, not DWI.

3 THE COURT: Okay. You know what I'm talking about,
4 though, don't you?

5 THE DEFENDANT: (Nods head.)

6 THE COURT: So let's move on to the next point.

7 THE DEFENDANT: You said you would order your clerk
8 to file a notice of appeal for me?

9 THE COURT: Yes. That would come at the end, but do
10 you want me to do that?

11 THE DEFENDANT: Yes, sir. I want to make sure that
12 gets done.

13 THE COURT: Okay. Just so DWI and DWL doesn't
14 confuse the record, it was without a license as opposed to
15 intoxicated.

16 THE DEFENDANT: Driving without a license.

17 THE COURT: I understand.

18 THE DEFENDANT: The issue is not so much the tax but
19 the violation of the laws of God that says I'm not to make any
20 covenant with the heathen or --

21 THE COURT: All right.

22 THE DEFENDANT: -- participate in things of this
23 world. I don't trespass on the public right-of-way;
24 therefore, I have no reason to have a license. That's what
25 the license is for.

1 THE COURT: That issue is not before us.

2 Karen, you'll take care of the notice of appeal?

3 COURTROOM DEPUTY: Uh-huh.

4 THE DEFENDANT: We've already covered the failure of
5 counsel to turn over his file, which means I couldn't prepare
6 for this sentencing.

7 Let's see. Okay. Could I have a copy of my
8 objections to the PSR -- you've already gone through the -- my
9 objections and --

10 THE COURT: I have those. They were filed and I've
11 read through it.

12 THE DEFENDANT: Okay. And you have -- I'd like to
13 do argument on the objections but I don't have my copy of the
14 objections here.

15 THE COURT: Well, we're not going to review those.
16 First of all, I told you that my reading of those indicated
17 that most of those were not proper objections because they
18 deal with the trial and at this point we're not retrying the
19 case but we've moved -- we're past that.

20 THE DEFENDANT: But the objections have to be -- if
21 they're disputed, you have to make a determination on each
22 one.

23 THE COURT: I've overruled your objections.

24 THE DEFENDANT: All of them?

25 THE COURT: All of them.

1 THE DEFENDANT: Okay. All right. I want to move to
2 dismiss the case entirely. Go through these again because I'm
3 not sure --

4 THE COURT: No, that's denied.

5 THE DEFENDANT: It's just a quick list here. 18
6 U.S.C. 922, it's unconstitutional on its face.

7 Second, Fourth, Ninth, Tenth Amendments of Article
8 4, Section 2 because *Miranda v. Arizona* and *Marbury v.*
9 *Madison*, U.S. Supreme Court says you cannot amend the
10 constitution by rule or legislation either one.

11 And you're going to -- you'll rule on these each
12 individually?

13 THE COURT: Well, you see, Mr. Joos, we're running
14 in circles here. That's already been ruled. You've been
15 tried by a jury, you've been found guilty and now we're
16 talking about sentencing, not about whether or not it was
17 constitutional to try you in the first place. But to the
18 extent you want a ruling on those, your objection is denied.

19 THE DEFENDANT: Okay. Then the invalid search
20 warrant. Here's a problem I had with --

21 THE COURT: I've already ruled on that and I'll tell
22 you again, your objections to the search are denied.

23 THE DEFENDANT: Okay. There's an issue of
24 destructive execution of the search warrant which has not been
25 raised but because counsel would not take pictures when he was

1 down at the church, I can't show the damage but all I can do
2 is tell you what the damage was. They destroyed the office.
3 They broke --

4 THE COURT: That's denied as far as an issue here,
5 Mr. Joos.

6 THE DEFENDANT: Okay.

7 THE COURT: And I'm trying to be patient with you
8 here but now we're not going to circle around and do this over
9 and over here this morning.

10 THE DEFENDANT: I don't know which of these issues
11 have to be raised at sentencing and which don't. I'll try to
12 cover them as fast as I can.

13 THE COURT: Well, sentencing deals with sentencing
14 issues as to what's the appropriate sentence and what I opened
15 up for was to you to comment on the factors that I'm to
16 consider. And you did real good. You talked about medical
17 and testimonials and cruel and unusual punishment. That deals
18 with what we're about to do. Now you've gotten away from me
19 here and start talking about the trial again. So let's talk
20 about those factors that deal with sentencing.

21 THE DEFENDANT: Okay. I'm not clear on exactly
22 which they are, sir. I don't have a list in front of me.

23 THE COURT: Nature and circumstances of the offense,
24 the history and characteristics of you, consideration of the
25 seriousness of the offense, promotion of respect for the law,

1 providing a just punishment for this offense, affording
2 adequate deterrence to criminal conduct, protecting the public
3 from further crimes by you, and to consider whether or not you
4 need education or vocational training or medical care, and you
5 told me about the medical care.

6 THE DEFENDANT: Okay. Nature and circumstance of
7 the offense. That's what I'm getting into here. There was
8 no -- there was no offense. The jury based their entire
9 verdict off of perjury by the cop. And because I had no
10 counsel at trial, I had no way to present --

11 THE COURT: Mr. Joos, we're not going to retry the
12 case, okay? So quit talking about what you disagree with at
13 the trial because that has nothing to do with what we're doing
14 now.

15 THE DEFENDANT: Isn't that the nature and --

16 THE COURT: Not in sentencing. That's what your
17 appeal is all about.

18 THE DEFENDANT: Nature and what you said, sir?

19 THE COURT: Well, the nature and circumstances of
20 the offense.

21 THE DEFENDANT: Right, nature and circumstances of
22 the offense.

23 THE COURT: That would deal with the fact that you
24 had a lot of guns out there. That concerns me. There were,
25 it says in this report, 19,000 rounds of ammunition. That

1 concerns me a lot because why would you have that much
2 ammunition?

3 THE DEFENDANT: I didn't.

4 THE COURT: Well, jury says you did and so I have to
5 deal with what the jury says. You can deal with that on
6 appeal. But if you want to make any points here, you need to
7 try to tell me why that shouldn't be a concern to me. There's
8 this issue of the Mahon brothers.

9 THE DEFENDANT: It wasn't mine. Belonged to the
10 church. The church has many members. They were storing
11 stuff, apparently, out there in the office and I didn't know
12 about it.

13 THE COURT: Well, you know, another thing, if you
14 read that report you'll see that the jury obviously felt that
15 you didn't tell the truth when you testified because you had
16 said certain things and they found different and you got a
17 couple of points for that for obstruction of justice for not
18 telling the truth. Now --

19 THE DEFENDANT: But that isn't valid because
20 everything that you use here has to be proven beyond a
21 reasonable doubt. The jury did not find me guilty of perjury.

22 THE COURT: All right. So let's go. Let's talk
23 about any other factors that you want to talk about.

24 THE DEFENDANT: Nature of the offense. There were
25 80 guns found in the David Koresh compound. There were 80

1 adults in the David Koresh compound. So the number of guns
2 and amount of ammunition is not unreasonable considering the
3 number of people that have been in and out of the church over
4 the past 10 to 15 years. I don't know how many -- I don't
5 know who all, what or how many each person had but, like I
6 said, it wasn't any of my business to begin with.

7 The -- here's another, jurisdiction according to the
8 U.S. Supreme Court can be raised at any time.

9 THE COURT: No, that's denied.

10 THE DEFENDANT: Jurisdiction issue is?

11 THE COURT: Jurisdiction is denied. We're past
12 that.

13 THE DEFENDANT: Okay. So you don't want to hear any
14 of the jurisdiction issues?

15 THE COURT: No, that's not what we're talking about
16 today.

17 THE DEFENDANT: Okay. The validity of the
18 underlying felony, where did I see that? That has to be
19 raised at sentencing also.

20 THE COURT: Okay. I will rule that I found those to
21 be valid and proper use for you being a felon in possession.

22 THE DEFENDANT: Okay. Cruel and unusual punishment.
23 I pulled some sentences off of the -- off of cases, you know,
24 people -- people with violent crimes getting three years or
25 less. One guy shot up a house with five people in it, he got

1 three years' probation.

2 THE COURT: You understand the sentencing --

3 THE DEFENDANT: Disparity of sentencing is one of
4 the issues.

5 THE COURT: Sentencing guideline says it's
6 recommended that your custody sentence be between 63 to 78
7 months.

8 THE DEFENDANT: Right. But the Court does not have
9 the --

10 THE COURT: I'm not bound by that but that's
11 certainly a consideration, a strong consideration, and if you
12 want to make any points, you need to be showing me why that's
13 not an appropriate sentence for you.

14 THE DEFENDANT: Yes, sir. That's what I'm
15 attempting to do. But, again, without -- without anything
16 from the prosecutor or counsel, that's hard to do because I
17 can't challenge what they're saying if I don't have a copy of
18 what it is and be able to challenge it.

19 Let's see. There was -- okay. As at the trial you
20 denied me my right to defend myself but you wouldn't give me
21 30 days to prepare for trial. I filed a motion and he did
22 just exactly what he said he was going to do, see to it that I
23 got convicted because the church doesn't have a 501(c)(3) tax
24 number, but you wouldn't give me 30 days to prepare for trial
25 then and you won't give me 30 days to prepare for sentencing

1 now. I just want that noted for the record.

2 Let's see. Relevant conduct. Okay. You filed
3 something different -- they filed something different than I
4 did. The case law I've got says 10 years old. I think it's
5 *Rita v. U.S.*

6 THE COURT: I've already covered that when we
7 started out this morning. That's a matter of record.

8 THE DEFENDANT: Okay. I don't have a copy -- well,
9 you've already ruled on the objections. I objected to
10 hearsay. I objected to a bunch of stuff. You ruled on that.

11 Okay. This is *Custis v. U.S.*, bar sentence
12 enhancement where there was a complete denial of counsel in
13 the prior conviction, which is an issue I raised. Let's see.
14 Have I got that here? That's an issue I've attempted to raise
15 in the U.S. District Court. It's still pending. I don't know
16 what -- isn't any decision yet.

17 THE COURT: The fact that your prior conviction was
18 used?

19 THE DEFENDANT: Yeah, the DWL, the conviction they
20 were using on this case, driving without a license.

21 THE COURT: I've looked at the way they've used the
22 prior convictions and I feel it's appropriate. So any
23 objections you have are denied.

24 THE DEFENDANT: Right. That was -- the objection
25 was a complete denial of counsel in that case.

1 THE COURT: Well --

2 THE DEFENDANT: Which --

3 THE COURT: -- you can bring that up on appeal but
4 as far as I'm concerned, any objection you have to the use of
5 those prior convictions is denied in this Court.

6 THE DEFENDANT: Okay. Yeah, here it is. *U.S. v.*
7 *Bradley*, this is the Eighth Circuit in '07, only violent --

8 THE COURT: Are you still on the same issue?

9 THE DEFENDANT: No, this is the felony conviction,
10 concealed carry.

11 THE COURT: I told you --

12 THE DEFENDANT: Only violent felonies can be used to
13 enhance a sentence.

14 THE COURT: Mr. Joos?

15 THE DEFENDANT: Can't use a nonviolent felony.

16 THE COURT: Okay. I have ruled that the use of
17 convictions in this case I find to be proper. So you may have
18 a ground for appeal, and if you want to make it, that's fine.
19 My ruling stands. We don't need to talk about your prior
20 convictions any more.

21 THE DEFENDANT: Okay. 18 U.S.C. 922 doesn't apply
22 to me. *Lewis v. U.S.* It only applies to presumptively
23 dangerous persons. Driving without a license is not a
24 dangerous felony. Neither is concealed carry so --

25 I have to go through these because it's -- they're

1 mixed together and some things you've already ruled on so I
2 have to delete those.

3 THE COURT: Are you reviewing the same motions that
4 you filed with the Court?

5 THE DEFENDANT: No. Some of these are notes that I
6 took after reviewing the discovery.

7 THE COURT: All right.

8 THE DEFENDANT: The issue of counsel at this trial,
9 denial of counsel. Okay. This is -- well, in addition to
10 refusing to turn over his copy of his files so I could use it
11 for sentencing -- now, the counsel issue negates a conviction,
12 so I just want to quickly run through all the things he did --

13 THE COURT: No, you can do that on appeal. But your
14 objection is to your counsel at trial?

15 THE DEFENDANT: Right. I was denied counsel.

16 THE COURT: That's overruled.

17 THE DEFENDANT: Okay. According to the U.S. Supreme
18 Court, mitigating circumstances covers a wide range of issues.
19 I want to present some of these and see if this is what you
20 would consider mitigating circumstances because I've been
21 locked up. In addition to the physical suffering from the
22 denial of treatment for illnesses and injuries, there's also
23 been a denial of proper diet, adequate law computer time, warm
24 clothes. I sleep on the floor because they don't have bunks
25 available. I can't even get dental floss to clean my teeth.

1 They won't give me anything for severe dermatitis I have on my
2 scalp. Even though I got it at the other jail at Osceola,
3 they won't give me anything here. In fact, the doctor hasn't
4 examined my scalp to see what it is to make a determination
5 for himself.

6 Okay. My life's work for the church is being
7 destroyed by this whole thing. I'm precluded from teaching
8 God's law to the church and to the public which I do on a
9 regular basis because we have Bible studies whenever -- I
10 mean, at the drop of a hat I'll stop and study the Bible with
11 people if they're interested. We had a poverty relief program
12 which I supervised which included collecting and distributing
13 donations, providing jobs, housing, food, clothing, et cetera,
14 for people down there, for poor people. We lost our volunteer
15 workers at the church. We've lost members and associates.
16 There was destruction of the office and theft of the computer,
17 phones, files. That's another thing, files. I found in the
18 trial file that he has other files, you know, miscellaneous
19 files, and in the miscellaneous files is exculpatory evidence,
20 at least the ones that I know are missing from the church,
21 which is my federal habeas corpus file and my parole file.
22 Now, I suspect he has them but since he won't show them to me,
23 I don't know. That's one of the things I had in my motion for
24 delay of sentencing so that I could see everything he's got.

25 Okay. The raid on the church by 100 cops and three

1 days of ransacking the property from what I'm hearing has
2 terrorized the neighbors and that's probably why we've lost a
3 lot of our members and associates. This again allowed the
4 media smear campaign against me to crank up.

5 Without me there to supervise maintenance, we're
6 getting insect, animal and weather damage to crops and
7 buildings, the equipment, the donations. We've got
8 deterioration of fields, lawns, gardens, buildings, roads,
9 bridges, vehicles, tools and equipment all due to lack of
10 maintenance which I either do myself or I supervise. We've
11 got loss of our crops. The tomato crops, garlic, onions,
12 herbs, nuts, berries, sunchokes and the honey crop wasn't
13 harvested last year. There's no one to answer the phone or
14 mails, or at least very little, just the church treasurer and
15 he doesn't do very much because he's working a regular job
16 now. There's damage to the unlocked vehicle interior because
17 the cops smashed out the windows. I'm not allowed to observe
18 the holy days, Passover, Pentecost, et cetera. We had a
19 community clean-up project where we go around and find where
20 people dump trash along the side of the roads and I would
21 supervise those clean-ups. Then there's weather damage to the
22 unfinished buildings. All this is being exacerbated. The
23 longer I'm locked up, the longer this damage is going to
24 continue. That's all on that one.

25 One thing I would request the Court, I would like to

1 find out is if the Court ever got my past two or three motions
2 I filed because I've got no notice.

3 THE COURT: I believe I've got a fistful of motions
4 or a group of them attached to the presentence investigation
5 report. I can't -- if there's something you filed that isn't
6 here, there's no way for me to know it's not here. You
7 understand that?

8 THE DEFENDANT: Right.

9 THE COURT: I believe everything you've covered I
10 have motions that seem to relate to that, so we'll move on.

11 THE DEFENDANT: That one in particular about the
12 30-day extension.

13 THE COURT: Well, 30-day extension is denied.

14 THE DEFENDANT: Then there was the -- on 2 May '10 I
15 sent out this one which was the motion for sanctions against
16 counsel for refusing to turn over the file. Is that in the
17 file?

18 THE COURT: Well, let me make sure we have a ruling
19 on that. That's denied.

20 THE DEFENDANT: Okay. Here's a motion that I want
21 to file with the Court which has to do with return of
22 property. "Comes now, Robert Joos, for the Sacerdotal Order
23 of the David Company, a/k/a the Church, moves this Court or
24 plaintiff to immediately return all property, computers, two
25 cell phones, files, documents, two dummy rifle grenades, and

1 all other items disclosed or undisclosed taken from the church
2 leasehold. Plaintiff had no right to keep said property
3 except that which is illegal to possess to the church
4 leasehold, arrangements to be made with Jeff Conway,
5 treasurer, or other officer or trustee of the church."

6 THE COURT: All right. Now, there's a forfeiture of
7 certain property.

8 THE DEFENDANT: Right. But this doesn't --

9 THE COURT: And all the property that's forfeited
10 would not be returned.

11 Now, let me ask the government, in regard to any
12 property that you have that is not forfeited, what's the
13 disposition of that?

14 MR. KELLEHER: It depends on what the property is.
15 Ultimately a lot of the stuff is in evidence that he refers
16 to.

17 THE COURT: Okay. So I know that what's in evidence
18 stays in the government's possession through the appeal there.

19 MR. KELLEHER: Correct.

20 THE COURT: What's forfeited, of course, is not
21 returned. If there's anything else, what's the disposition of
22 that?

23 MR. KELLEHER: Eventually it will be returned to a
24 designee of the defendant.

25 THE COURT: Okay.

1 THE DEFENDANT: But he doesn't know -- the computer,
2 cell phones, files --

3 THE COURT: Here's what I'll say. That's a motion.
4 We're not deciding it today. But what I'm saying is that you
5 have property that was taken in the search. Some of it's
6 going to be forfeited, some of it's going to be retained
7 because it's still in evidence. The case will be on appeal.
8 Eventually what's not taken will be returned to somebody that
9 you designate to get it if you're still in prison.

10 THE DEFENDANT: Okay. How do I get this filed?

11 THE COURT: You deal with that at the time when they
12 start dividing it up but not today. Your motion is premature
13 today. I'll deny it for today.

14 THE DEFENDANT: Is there some way to file this with
15 the Court today?

16 THE COURT: Well, we've got a record of it. She's
17 making a record, so we have a record. You made that motion
18 today. It's been denied.

19 THE DEFENDANT: All right. Okay. This is -- this
20 deals with something that has to be done before sentencing.
21 This is a petition for the -- specifically for firearms.
22 Petition for redress of grievances, return of property.
23 "Comes now the Sacerdotal Order of the David Company, also
24 known as the church, by and through their minister, Robert
25 Joos, pursuant to their right to petition for redress of

1 grievances secured by --

2 THE COURT: Let me just summarize. Is this a
3 petition for the same property you just talked about?

4 THE DEFENDANT: No. No.

5 THE COURT: For the guns?

6 THE DEFENDANT: Right, for firearms and the --

7 THE COURT: Okay. I can just tell you the same
8 thing. I'm going to deny that as premature. We have a
9 forfeiture going on and if that property is forfeited, you
10 would not get it back. The guns are going to be forfeited.

11 THE DEFENDANT: That's what has to be read into the
12 record before. This has to be done before I'm sentenced
13 according to the law, so I just need to have the motion on
14 file.

15 THE COURT: Give it to Karen here.

16 THE DEFENDANT: Okay.

17 THE COURT: The marshal will get it. Okay. It'll
18 be filed.

19 THE DEFENDANT: This has to do with exculpatory
20 evidence and mitigating circumstances so --

21 THE COURT: Well, is it anything you haven't covered
22 before?

23 THE DEFENDANT: Yeah, I haven't covered this yet.
24 This is what needs to be on the record. It's just a short --
25 the rest of this motion that she has there. Because the

1 church has no knowledge of any crime, church has no guilt
2 involved in any crime, no one has come forward to claim
3 anything as far as the guns and ammunition goes, the firearms
4 and ammunition that the plaintiff himself admits was taken
5 from the church property and therefore the property must be
6 considered abandoned. As with any property abandoned at the
7 church, it becomes property of the church unless it is illegal
8 to possess. The church doesn't allow bringing let alone
9 storing anything illegal on the property. There is nothing
10 illegal about the church possessing the property. It is
11 unlawful to punish the church for the act of a member. Church
12 treasurer, Jeff Conway, had no knowledge of the firearms or
13 ammunition stored at the church office storage building.
14 That's on page 3 of ATF report No. 7 which I found in the
15 information that was in his trial file.

16 THE COURT: Okay. Are you telling me that's --

17 THE DEFENDANT: That's why I'm petitioning the
18 Court --

19 THE COURT: All right. Is that a second page of
20 this motion you filed?

21 THE DEFENDANT: No, that's a copy of what she has
22 there.

23 THE COURT: Okay. Well, that's denied.

24 THE DEFENDANT: Okay. The failure of prosecutor to
25 turn over everything on discovery. That I discovered last

1 week. There were 50 pages missing out of the discovery that
2 was in his trial file and --

3 THE COURT: Okay. Is there an objection to that?

4 THE DEFENDANT: Yeah. Moving to dismiss this whole
5 case on the grounds that I was not afforded discovery because
6 he withheld discovery evidence.

7 THE COURT: That's denied.

8 THE DEFENDANT: Not just that. There's that and
9 then there's also a reference to a whole lot of ATF reports
10 and other things in his file which were not in the discovery
11 he gave me back last week to look at. There was, like I say,
12 3,000 pages of stuff, yet when he gave me the trial file,
13 there was all kinds of things in there that were not in the --
14 in that -- what he said was the discovery that he gave to
15 Johnson that Johnson gave back to him.

16 THE COURT: Okay. To the extent there's an
17 objection here at this sentencing hearing in regard to that,
18 it's denied. Let's move on.

19 THE DEFENDANT: Like to request -- I need to know if
20 the Court has actually -- have you read the bomb letter?

21 THE COURT: Which letter, the bomb letter?

22 THE DEFENDANT: The so-called bomb letter that
23 explains how to demolish a building, gives all the safety
24 requirements and the requirements to check with the local
25 authorities to see if you need a permit, licenses and --

1 THE COURT: The bomb letter that was in evidence at
2 trial, I've read.

3 THE DEFENDANT: Okay. I want that used as
4 exculpatory evidence for mitigating circumstance because they
5 used it to claim I was trying to engage in some kind of
6 criminal activity and it's obvious that I was just telling a
7 guy how to demolish a building.

8 THE COURT: That's not the charge you were convicted
9 on so --

10 THE DEFENDANT: No, but was used against me.

11 THE COURT: I understand. Let's move on.

12 THE DEFENDANT: I found out during -- he showed me
13 his trial file that the ATF had gone up to and found where the
14 state highway patrol is storing this phony machine gun they
15 charged me with back 15 years ago. I wanted that brought to
16 the court to show the Court that there's no way to tell a
17 firearm is a firearm by looking at it and that's what they
18 conned the jury into believing. I couldn't get the counsel,
19 Johnson here, to subpoena that machine gun. It could have
20 been found, I'm sure, because the state highway patrol knew
21 where it was. I told them how to find it.

22 THE COURT: All right.

23 THE DEFENDANT: And the jury convicted on the
24 grounds that they think you can tell a firearm is a firearm by
25 looking at it yet even their own expert had to testify that

1 every one was test fired in order to insure that it was an
2 operable firearm.

3 THE COURT: Are you objecting to that evidence at
4 trial?

5 THE DEFENDANT: I'm objecting to not being allowed
6 to bring this machine gun in here to sentencing to show you
7 that this is the kind of crap I get charged with by the
8 government every time I turn around.

9 THE COURT: Okay.

10 THE DEFENDANT: They held those charges on me for
11 two years and finally had to drop it because -- and I noticed
12 today in one of his exhibits he's got a picture of a machine
13 gun, which is how they got me on -- bound over for trial to
14 start with. They bring in a picture of a machine gun, show it
15 to the guy and he says, "Oh, yeah, that's a machine gun,"
16 which is what they're going to try to do today here apparently
17 because they got a picture of probably the same machine gun.

18 THE COURT: All right. The objection that you have
19 to that is denied.

20 THE DEFENDANT: Let's see. You've already denied --
21 get this straight, denied my right to have copies of 108 pages
22 that came out of what I found last week to be used here at
23 sentencing and transcripts of about a dozen of those in order
24 to -- because they had transcripts of other people's phone
25 calls --

1 THE COURT: I made my rulings, Mr. Joos. You went
2 through there. We're not going to rehash it. Okay? Go to
3 your next thing.

4 THE DEFENDANT: That was the page --

5 THE COURT: We've been at this about an hour. I'm
6 trying to be patient with you.

7 THE DEFENDANT: I'm sorry, sir.

8 THE COURT: You go through it and then you want to
9 summarize for me and the record speaks for itself. Let's go
10 to your next issues.

11 THE DEFENDANT: I want to be clear on this issue.
12 I'm not allowed to have anything -- copies of anything the
13 prosecutor had, is that what you're saying?

14 THE COURT: No, that's not what I'm saying. I ruled
15 on it but -- I've made my rulings about what you got from the
16 prosecutor and what you got from your own counsel, so let's
17 quit talking about that and talk about other issues that
18 relate to sentencing.

19 THE DEFENDANT: Okay. This relates to sentencing.
20 Moreland, the cop that testified at trial, there's all these
21 letters that were sent to this federal informant, Becka
22 Stevens, which are referred to in his files but which do not
23 appear in there and if I had all those letters, I could show
24 the Court that I was not engaging in any criminal activity;
25 that I was simply trying to convince these people that they

1 should quit doing whatever it was they were doing. They never
2 came out and said what they were doing but they eluded that
3 maybe they were involved in something that wasn't exactly
4 legit. And my only point in dealing with these people was try
5 to convince them to follow Revelation 18:4, "Come out of her,
6 my people, that ye be not partakers of her sins, and that ye
7 receive not her plagues."

8 THE COURT: Okay.

9 THE DEFENDANT: Don't fight the government, just get
10 out and don't deal with what's going on in the government.
11 Those letters would --

12 THE COURT: To the extent --

13 THE DEFENDANT: -- be exculpatory evidence I could
14 use here in mitigating circumstances but I don't have access
15 to them.

16 THE COURT: Any request you have there is denied.

17 THE DEFENDANT: Okay. This is another motion I need
18 to give to the clerk. This is a motion that I sent last week
19 12 May which I don't know if the Court ever got. This is a
20 motion to delay sentencing, make copies and move my work
21 location.

22 THE COURT: All right.

23 THE DEFENDANT: This is a --

24 THE COURT: You can give it to her. Your motion in
25 regard to delaying the sentencing has already been denied.

1 THE DEFENDANT: This is a different one that I filed
2 that I sent up after I sent the other one, after I had another
3 day of looking at the records, so there was other things I had
4 to put on there.

5 THE COURT: This request to extend the sentencing is
6 also denied.

7 THE DEFENDANT: Okay.

8 THE COURT: That cover everything?

9 THE DEFENDANT: I'm running out of pages here,
10 Judge, so I'm almost done.

11 Now, this copy of my case file it says for
12 sentencing as well as request for post-trial relief. Now, I
13 don't have a copy of the file for sentencing.

14 THE COURT: We're going to deal with post-trial.
15 I've already ruled on sentencing.

16 THE DEFENDANT: Right. Are you going to make him --

17 THE COURT: I'll decide that.

18 THE DEFENDANT: -- give me a copy of the file for
19 post-trial?

20 THE COURT: I'll decide that later.

21 THE DEFENDANT: Okay. I'm already losing track.
22 Did I give you the motion to return the firearms and
23 ammunition petition?

24 THE COURT: I have the Petition for Redress of
25 Grievances Return of Property, about the church. That's

1 denied.

2 THE DEFENDANT: Okay.

3 THE COURT: And you should understand that it's a
4 forfeiture process and if you're claiming --

5 THE DEFENDANT: If I don't make the objection now,
6 then I can't after sentencing.

7 THE COURT: There's a claim period for forfeiture,
8 and we'll deal with that in just a little bit. In turn for --
9 your other motion here that you filed with the Court, Motion
10 for Delay of Sentencing, Copies, Moving Work Location, that's
11 also denied. I've read both of those. They're denied.

12 THE DEFENDANT: I'm just about out of stuff here,
13 Judge. One other comment I need to make is that because of
14 distance and poverty of our people down at the church, people
15 I've been helping, the ones that wrote me letters, you know,
16 wrote letters -- actually, they weren't addressed to me, they
17 were addressed to the Court or Whom it May Concern -- they
18 just don't have the money -- most of them don't have vehicles
19 reliable enough to come up here all the way from southwest
20 Missouri or they would have been here today to testify for me.

21 THE COURT: All right.

22 THE DEFENDANT: But I also want to -- I'm requesting
23 the Court provide me with some way to get the letters to the
24 Court.

25 THE COURT: The ones you told me about?

1 THE DEFENDANT: Right. Yes, sir.

2 THE COURT: Well, I'm going to consider what you've
3 told me today on those letters. I'm going to sentence you
4 today. I'm not delaying the sentencing. So to send me the
5 letters after today is not going to make any difference.

6 Is that everything, Mr. Joos?

7 THE DEFENDANT: That's all I have until the
8 prosecutor comes up with something.

9 THE COURT: Well --

10 THE DEFENDANT: I've seen stuff over here I'm going
11 to have to object to because I don't -- I wasn't informed of
12 what these exhibits and stuff are that he plans on presenting
13 today.

14 THE COURT: Well, we'll see.

15 All right. See what the U.S. Attorney has to say.

16 MR. KELLEHER: Your Honor, I'd like to call three
17 witnesses this morning. I think that's probably the best way
18 to proceed. Following the witnesses, I'll make my argument in
19 terms of sentencing, if that's acceptable to the Court.

20 THE COURT: What are these witnesses for?

21 MR. KELLEHER: To establish -- well, Miles Parks is
22 a former highway patrol officer who had extensive dealings
23 with Mr. Joos in the '90s and can speak to his character,
24 background, some of the other things that went on back then
25 that tie him into violent and white supremacist-type

1 activities.

2 THE COURT: Is that really the appropriate thing to
3 do when we have a presentence investigation if we're not
4 proving anything that's in the investigation that's something
5 new and different? Is this really the way to do this?

6 MR. KELLEHER: I don't know of any other way, Your
7 Honor.

8 THE COURT: Well, I would like for us to stick to
9 the presentence investigation because if there was other
10 evidence, it's like new evidence and then it's like we give --
11 we'll delay this further for a response to that and it seems
12 to me that presentence investigation provides relevant conduct
13 and that's what I'm to consider. It sounds like you're
14 talking about expanding that to additional conduct.

15 MR. KELLEHER: It goes straight to the 3553 factors,
16 Your Honor. Obviously, the presentence report is directed
17 towards the actual offense but obviously --

18 THE COURT: But it's also his criminal history.

19 MR. KELLEHER: I understand that, but the character
20 goes far beyond criminal history. The defendant, in fact, has
21 denied ties to the white supremacist movement. I think that
22 is relevant. He has denied being a violent person.
23 Obviously, if I can present evidence -- and I can -- that he
24 has engaged in violent activity, that is also relevant to
25 determination of sentence, Your Honor. In fact, I can

1 establish a pattern of violent activities.

2 THE COURT: Is that what all these witnesses are
3 for?

4 MR. KELLEHER: With the exception of Kevin
5 Farnsworth. He would attest to the fact that one of the guns
6 was stolen. I don't know if an objection was made
7 specifically to that point but given the fact that Mr. Joos is
8 representing himself, I would at least like to make a short
9 record as to that sentencing enhancement so there can be no
10 question that that enhancement was appropriate.

11 THE COURT: Well --

12 MR. KELLEHER: And, Your Honor, I will move as
13 expeditiously as I can.

14 THE COURT: I know, but what I --

15 MR. KELLEHER: But I do think this is relevant to
16 determination of what the appropriate sentence is.

17 THE COURT: Are you trying to get something outside
18 of the guidelines?

19 MR. KELLEHER: I am, Your Honor. And I don't
20 think -- to be perfectly honest, I don't think the guidelines
21 address a person like Mr. Joos, frankly.

22 THE COURT: If something's been denied by Mr. Joos,
23 I think it's fair game to put somebody on the stand to testify
24 about. If we're trying to just enhance the record beyond what
25 was disclosed in the presentence investigation report, I don't

1 think that's appropriate at this time and would delay the
2 sentencing, which I really don't want to do.

3 MR. KELLEHER: I will curtail my -- the testimony to
4 specifically directed towards the denials of Mr. Joos.

5 THE COURT: I want to stick to what's in the
6 presentence investigation, those issues. You mentioned the
7 stolen firearm. I understand that. But in all fairness,
8 Mr. Joos has had the presentence investigation report. We've
9 spent over an hour now while he's responded to everything he
10 felt was appropriate. I don't want to expand this situation
11 beyond that. I want to get it done today.

12 MR. KELLEHER: Again, I don't think my presentation
13 will take very long, Your Honor.

14 THE COURT: It isn't the length of it. It's the
15 subject matter I'm talking about. So if we're going to start
16 talking about his activity that's not discussed in the
17 presentence investigation report, for all the reasons I've
18 stated and the circumstance, I'm not going to allow that
19 today. Okay?

20 MR. KELLEHER: I understand that, Your Honor, but --
21 and, again, maybe I'm misunderstanding, but you're denying me
22 the opportunity to elaborate on the government's allegations
23 that he's been involved in violent white supremacist acts for
24 the last 20 or 30 years?

25 THE COURT: Well --

1 THE DEFENDANT: That's all media hype and hearsay.

2 THE COURT: You know, I'll just say, if you want to
3 do that, we'll continue this and let him have a chance to
4 respond because I'm not going to get in here -- he doesn't
5 have counsel, we've been through all of this and it just -- if
6 there's particular paragraphs in here that I guess you're
7 saying you're elaborating on? I gathered you're talking about
8 something that's not in here that you want me to know about.

9 MR. KELLEHER: That's correct, Your Honor.

10 THE COURT: Now, doesn't a defendant have a chance
11 to respond to things like that, and isn't that the whole idea
12 of the presentence investigation report and this back and
13 forth and the defendant having a chance to object to it so
14 that there's a process that allows things to be sorted out
15 before we get here for the hearing?

16 MR. KELLEHER: You know, I don't know if there's a
17 mechanism to do that. The fact of the matter is, it's --
18 there is no accident that the government has been making
19 allegations that Mr. Joos is involved in the white supremacist
20 movement or -- we're simply eliciting facts to support that
21 and I think the fact that Mr. Joos has been engaged in violent
22 activity, he certainly can argue or object to the evidence
23 that we admit, but ultimately it's up to the Court to
24 decide -- again, I think the fact that he's been involved in
25 the white supremacist movement, has been associated with

1 violent acts and violent people directly and perhaps directly
2 involved I think should give the Court a wealth of information
3 to inform its sentencing decision.

4 THE COURT: I don't doubt it would be a wealth of
5 information. I'm just talking about procedure here. So if
6 you're going to get into it, I think there's -- in the
7 presentence report there's a statement that he just missed
8 being arrested in regard to a bombing of a gay bar in Colorado
9 or something. If you're talking about that, I guess that's
10 fair game. It's mentioned in here. But I'd like for you to
11 stick to the subject matters that are mentioned -- white
12 supremacy I think is mentioned in here, but I don't want to
13 get us in a situation where we get off into a whole other set
14 of crimes or something that we're going to try to prove here
15 at a sentencing that have never been mentioned before.

16 MR. KELLEHER: Okay. I will --

17 THE COURT: Now, I know that may not be what you
18 want to do. I hope you'll consider all the circumstances
19 we're dealing with here and get this thing accomplished.

20 MR. KELLEHER: I do. I will curtail my presentation
21 dramatically.

22 THE COURT: All right. Let's go.

23 THE DEFENDANT: I object at this point --

24 THE COURT: Sit down, Mr. Joos. We're going to --

25 THE DEFENDANT: -- free speech.

1 THE COURT: -- proceed with it. Your objection is
2 overruled.

3 MR. KELLEHER: The government at this time would
4 call Miles Parks to the stand.

5 THE COURT: All right.

6 MILES PARKS, GOVERNMENT WITNESS, SWORN:

7 DIRECT EXAMINATION

8 BY MR. KELLEHER:

9 Q Would you please introduce yourself to the Court?

10 A My name is Miles Parks, retired Missouri highway
11 patrolman.

12 Q How long did you work for the Missouri Highway Patrol?

13 A About 39 years.

14 Q Mr. Parks, are you familiar with Robert Joos?

15 A Yes.

16 Q And did you, in fact, have occasion to conduct or
17 participate in a number of investigations of Mr. Joos?

18 A Yes.

19 Q I want to direct your attention specifically to September
20 of 1994. Were you assigned to investigate a shooting of
21 another highway patrol officer by the name of Bobby Harper?

22 THE DEFENDANT: I'm going to object at this point,
23 Your Honor. This issue has already been raised before a
24 federal grand jury in January of '03 and the federal grand
25 jury refused to indict anybody after I presented evidence that

1 they had absolutely nothing on us and it was all fabricated.

2 THE COURT: Mr. Joos, I understand you were in jail
3 at that time. You're not going to be sentenced for shooting a
4 highway patrolman today. So just sit down and we'll --

5 THE DEFENDANT: The grand jury already ruled on this
6 issue.

7 THE COURT: Go ahead.

8 Q (By Mr. Kelleher) Did you have occasion to investigate
9 that shooting?

10 A Yes.

11 Q Would it be fair to say that Bobby Harper was shot
12 through the window of his home back in September of 1994?

13 A Yes.

14 Q And that would have been approximately three months after
15 he arrested Robert Joos, correct?

16 A Yes.

17 Q And was a suspect developed in connection with that
18 shooting?

19 A Yes.

20 Q And would that have been Timothy Coombs?

21 A Yes.

22 Q Where was Mr. Coombs staying back in September of 1994?

23 A In the McDonald County area and he had been on the Joos
24 property.

25 Q Did you personally observe him on the Joos property?

1 A Yes.

2 Q Predicated on the leads you developed, did you ultimately
3 conduct a search of Robert Joos' property, including his home?

4 A Yes.

5 Q During the course of that investigation were some items
6 seized from Mr. Joos's house?

7 A Yes.

8 Q And did you, in fact, photograph those items as they were
9 found and once they were seized?

10 A Yes, sir.

11 Q I'm going to show you what's been marked as Government's
12 Exhibit 1 and ask if you can identify that photograph for me?

13 A It appears to be the living room of the Joos residence
14 depicting electronics equipment as well as books and a rifle
15 by the door.

16 MR. KELLEHER: I'd move to admit Government's
17 Exhibit 1, Your Honor.

18 THE DEFENDANT: I'm going to object as to the
19 relevance of this. I was in jail. Court knows I was in jail
20 at this time.

21 THE COURT: I understand.

22 THE DEFENDANT: I hadn't been there in three months.

23 THE COURT: I understand.

24 THE DEFENDANT: I wasn't living there at the time.

25 THE COURT: Okay. Objection is overruled. This is

1 just a sentencing hearing. Exhibit 1 is admitted.

2 Q (By Mr. Kelleher) Show you Exhibit 2.

3 A This is a photograph of a number of weapons including
4 handguns and rifles seized during the search warrant execution
5 on the Joos property.

6 Q What structure in particular were those seized from?

7 A His residence. His house.

8 Q The cabin area, if you will?

9 A Yes.

10 THE DEFENDANT: I'm going to object again as to
11 relevance.

12 THE COURT: Okay. Overruled.

13 MR. KELLEHER: I'd move to admit Government's
14 Exhibit 2, Your Honor.

15 THE COURT: I know you object to it. It'll be
16 denied. It's admitted.

17 Q (By Mr. Kelleher) Could you please identify
18 Government's Exhibit No. 3?

19 A This is a photograph of a Norinco machine gun.

20 Q Was that also found in Mr. Joos's residence?

21 A In -- it was on the property in an adjacent bunkhouse.

22 Q And was that gun functional at the time it was seized?

23 A No.

24 Q Did an expert take a look -- evaluate the gun?

25 A Yes.

1 Q And did he conclude that it was -- it could be restored
2 to functionality?

3 A Yes.

4 THE DEFENDANT: I'm going to object again on the
5 grounds I was not informed of any of this. I attempted to get
6 that machine gun. That very gun they're probably talking
7 about -- I can't see the picture, but there's only one I know
8 of that I'm accused of having out there and if I had known --
9 I tried to get that thing brought in here so the Court can see
10 that it cannot be restored. There are steel plates welded
11 into the receiver housing.

12 THE COURT: Okay. That gun is not one of the guns
13 that you're charged with in this case anyway. The objection
14 is overruled.

15 THE DEFENDANT: Well, I'm objecting for relevance.
16 It has nothing to do with me.

17 THE COURT: That's fine. I'm trusting myself to
18 keep relevancy under control here.

19 MR. KELLEHER: Move to admit that photograph, Your
20 Honor.

21 THE COURT: All right. Exhibit 3 is admitted.

22 Q (By Mr. Kelleher) And next would be Government's
23 Exhibit S4.

24 A This is a photograph of dynamite seized from the Joos
25 property.

1 Q Where was that seized from, if you recall?

2 A The bunkhouse.

3 MR. KELLEHER: Move to admit Government's S4.

4 THE DEFENDANT: Object again for relevance.

5 THE COURT: Overruled. Exhibit 4 is admitted.

6 Q (By Mr. Kelleher) Next show you Government's S5. Tell
7 the Court what that depicts.

8 A This is a photograph of the upstairs room in the Joos
9 home including a drawer -- I think this was a chest of
10 drawer -- including -- one of the shelves or drawers depicts a
11 photograph of some swastikas.

12 Q Is there also a KKK patch in the middle of that picture?

13 A Yes, there is.

14 Q Thank you.

15 MR. KELLEHER: Move to admit Government's Exhibit
16 S5.

17 THE DEFENDANT: I'm going to object for relevance
18 and it goes to free speech issues which the Court is not
19 allowed to address at sentencing.

20 THE COURT: I understand. And I'm not saying that
21 I'm going to do that but I'm going to admit it for the record
22 so it's in the record. So Exhibit 5 is admitted.

23 Q (By Mr. Kelleher) Did you also seize a number of news
24 articles during the search that were found in the Joos
25 residence?

1 A Yes.

2 Q I'll show you what's been marked as Government's Exhibit
3 S6. Are these, in fact, some of the articles that were
4 seized?

5 THE DEFENDANT: I'm going to object to the
6 prosecutor also keep calling it my residence. It was not my
7 residence. I had been in jail for three months. It wasn't my
8 residence. I wasn't even living there.

9 THE COURT: All right.

10 THE DEFENDANT: Also want to object to they keep
11 calling it the Joos property. He needs to make it clear that
12 Joos who was on the deed is not me. That's my parents.

13 THE COURT: I understand.

14 THE DEFENDANT: So he can call it the Joos property
15 but he's misleading the Court into thinking it's my property
16 when it's not.

17 THE COURT: I know your parents own the property.

18 THE DEFENDANT: Okay.

19 A They appear to be documents that were seized during that
20 search warrant execution.

21 Q (By Mr. Kelleher) And specifically is there an article
22 dated Gazette 18 May 1982 out of Colorado detailing a
23 bombing of the ex-wife of the Colorado Springs police
24 officer in which -- in which the KKK were implicated?

25 THE DEFENDANT: I'm going to object again for

1 relevance of that.

2 A Yes.

3 MR. KELLEHER: Your Honor, the items contained in
4 Government's Exhibit S6, I would introduce the two newspaper
5 articles that were contained in that, one pertaining to a
6 bombing investigation and one pertaining to the shooting of
7 Bobby Harper.

8 THE COURT: All right.

9 THE DEFENDANT: I'm going to object for relevance.

10 THE COURT: Okay. Overruled. It's admitted.

11 MR. KELLEHER: I think that's all I have, Your
12 Honor, of this witness.

13 THE COURT: Mr. Joos, do you want to ask Mr. Parks
14 any questions? You don't have to.

15 THE DEFENDANT: No, sir, I don't. He's not a
16 relevant witness to anything.

17 THE COURT: All right.

18 Step down.

19 MR. KELLEHER: Your Honor, at this time I would call
20 Kevin Farnsworth to the stand.

21 THE COURT: All right.

22 KEVIN FARNSWORTH, GOVERNMENT WITNESS, SWORN:

23 DIRECT EXAMINATION

24 BY MR. KELLEHER:

25 Q Special Agent Farnsworth, could you please introduce

1 yourself for the record?

2 A I'm a special agent with the Bureau of Alcohol, Tobacco
3 and Firearms. I'm stationed at the Springfield field office.
4 I've been employed with ATF for the last 22 years.

5 Q Were you the agent in charge of conducting the
6 investigation of Mr. Joos on the current set of charges?

7 A Yes.

8 Q In connection with your duties as an ATF special agent,
9 were you able to determine that the Ruger Mark II .22 caliber
10 pistol that was admitted at trial as Government's Exhibit 20
11 was, in fact, stolen?

12 A Yes.

13 Q And how did you go about confirming that?

14 A When that firearm was stolen in 1998 from a gun shop in
15 Oklahoma, it was reported to ATF per the requirements of the
16 licensee, then that went into the computer and this month I
17 went to that gun shop and interviewed the gun shop owners.

18 Q Were they able to confirm that that particular gun, the
19 gun that was admitted as Government's Exhibit 20, was, in
20 fact, stolen?

21 A Yes. It was one of 46 guns taken during a burglary in
22 1998.

23 Q As a secondary issue, while you were on the church
24 property, I suppose, when the search warrant was executed, did
25 you have occasion to take notice of a document that's entitled

1 Notice of Call to Pastor?

2 A Yes.

3 Q I'll show you Government's Exhibit S7. Is that, in fact,
4 the document, or a copy of the document?

5 A Yes.

6 Q What does that document purport to do?

7 A Would you like me to read it?

8 Q If you would.

9 A It says, "Notice of Call to Pastor. I, the undersigned,
10 as Trustee of the Sacerdotal Order of the David Company have
11 the honor of notifying you of my earnest call to you to
12 undertake the Pastoral office of the Order, in accordance with
13 the provisions of the By-Laws of the Order. If you will
14 accept this call, I look forward to your commencing duties as
15 soon as practicable. On behalf of the Church, I am confident
16 that your ministrations of the Gospel will be profitable to
17 our religious interest, and I promise and assure you that in
18 the discharge of your duties you will receive my support,
19 encouragement and obedience to the Creed of the Church. In
20 accordance with the By-Laws of the Order, you are required
21 upon acceptance of this call, to take a vow of poverty and
22 make gift of all your worldly possessions to the Order.
23 Thereafter, the Order will provide for your temporal needs,
24 but no salary or other remuneration will be paid to you by the
25 Church or Order. In witness whereof, I have signed my name on

1 this 30th day of October, 1981," and there's a signature of
2 Charles --

3 THE DEFENDANT: I'm going to object to this on the
4 grounds it calls my religious beliefs into question which are
5 not proper grounds for the Court to address.

6 THE COURT: Overruled.

7 A Signed by Charles Howorth.

8 MR. KELLEHER: Your Honor, I'd move to admit that,
9 S7.

10 THE DEFENDANT: I object for relevance.

11 THE COURT: Seven is admitted.

12 MR. KELLEHER: That's all I have of this witness,
13 Your Honor.

14 THE COURT: All right. Do you have any questions of
15 this witness?

16 THE DEFENDANT: Just thought of one that escaped me.

17 CROSS-EXAMINATION

18 BY THE DEFENDANT:

19 Q Did you personally examine -- I believe your name was on
20 the report, the machine gun, so-called machine gun they had at
21 the state highway patrol evidence locker?

22 A Yes, I did.

23 Q Did you examine the receiver housing?

24 A Yes, I did.

25 Q And what was inside the receiver housing?

1 A I don't know. I wasn't able to function the action of
2 the firearm. I wasn't able to open it up, in essence.

3 Q Was there even any action in it? Was there even a
4 receiver in the housing, that's what my question is?

5 A I believe there was, yes.

6 Q Okay.

7 THE DEFENDANT: Based upon his testimony, Judge, I'd
8 like to have them produce the machine gun because he just
9 testified to something that I know for a fact isn't true.
10 There were steel plates welded inside the receiver housing so
11 that no receiver could be put into the housing.

12 THE COURT: All right. Now --

13 THE DEFENDANT: He's just testified --

14 THE COURT: -- is there an enhancement for machine
15 gun --

16 MR. KELLEHER: Is there what?

17 THE COURT: Is there an enhancement for a machine
18 gun in here?

19 MR. KELLEHER: No, Your Honor.

20 THE WITNESS: Your Honor, could I explain
21 additionally?

22 THE COURT: Hang on just a second.

23 Does the machine gun have anything to do with the
24 calculation of the advisory guidelines?

25 MR. KELLEHER: It does not, Your Honor.

1 THE COURT: So, Mr. Joos, I understand what you're
2 saying but it doesn't go into the calculation of the
3 guidelines that I have in front of me here.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you have any other questions?

6 THE DEFENDANT: No, sir.

7 THE COURT: Did you want to say something?

8 THE WITNESS: I just noted the gun had -- the barrel
9 was sealed with, I believe it was led. I didn't really look
10 at the receiver in great detail but I did note that I couldn't
11 pull the action of the gun but it was nonfunctional based on
12 the fact that the barrel was plugged.

13 THE COURT: Okay. Thank you. You can step down.

14 MR. KELLEHER: Government calls Tristan Moreland.

15 TRISTAN MORELAND, GOVERNMENT WITNESS, SWORN:

16 DIRECT EXAMINATION

17 BY MR. KELLEHER:

18 Q Would you please introduce yourself to the Court once
19 again?

20 A Yes, Tristan Moreland is my name. I'm a special agent
21 with the Bureau of Alcohol, Tobacco, Firearms & Explosives.
22 I'm currently assigned to Phoenix, Arizona, and I have been
23 with ATF for 21 years, roughly.

24 Q Now, you testified at trial that you were assigned to
25 investigate a bombing in Arizona for which Dennis and Daniel

1 Mahon have since been arrested and indicted for, correct?

2 A That's correct, sir.

3 THE DEFENDANT: I'm going to object to this whole
4 line of questioning. What has this got to do with me or this
5 sentencing hearing?

6 THE COURT: I agree. And if it doesn't, it won't be
7 considered. I don't know what's going to be said yet. Your
8 objection is overruled.

9 Go ahead.

10 Q (By Mr. Kelleher) As Mr. Joos was speaking earlier, he
11 indicated that he had no idea what the Mahons were up to.

12 A Correct.

13 Q Who are the Mahons?

14 A Dennis and Daniel Mahon are twin brothers from Illinois.
15 They began their white supremacist career as members and Grand
16 Dragons of the Ku Klux Klan. They evolved during the '80s and
17 began membership with a group called WAR of the White Aryan
18 Resistance which they maintained association with up until the
19 time of their arrest. To my knowledge they're into all kinds
20 of various causes, anti-abortion of white children, anti-tax,
21 tax protesting, anti-government in general.

22 Q Now, is Mr. Joos acquainted with the Mahons?

23 A Yes.

24 Q And how do you know that?

25 A I know that from discussions personally with Mr. Joos and

1 from discussions with the Mahons. Then, of course, in either
2 monitoring or overhearing --

3 THE DEFENDANT: I'll stipulate this point, Judge,
4 that I do know the Mahons. But, again, I'm objecting for
5 relevance.

6 THE COURT: All right. Objection is overruled.

7 Q (By Mr. Kelleher) Now, are the -- do the Mahons make
8 any secret of their views?

9 A Somewhat publicly with respect to maintaining employment
10 and things like that but Dennis is very vocal. Daniel is
11 somewhat quieter. But in my relationships with them
12 personally, no, they're very clear of their views.

13 Q And do they, in fact, have -- or did they, in fact,
14 indicate to you that they used Mr. Joos' residence as a
15 retreat?

16 A That's a word they used, yes.

17 Q Did Mr. Joos confirm that to you?

18 A Yes, he did.

19 Q Now, would it be fair to say that you came into contact
20 with Mr. Joos through the Mahons?

21 A That's correct.

22 Q Now, when -- what was your understanding from the Mahons
23 in terms of Mr. Joos's role with them?

24 A He was identified as a member of --

25 THE DEFENDANT: I'm going to object. This is

1 hearsay. He's telling what the Mahons said. If they're going
2 to do that, then I want all this discovery, those 100 pages
3 where the Mahons are talking about me or I'm talking to the
4 Mahons -- I mean, they're bringing up stuff now that I've been
5 denied -- you know, I've been denied the right to present this
6 to the Court, the very issues that they're bringing up now
7 about the Mahon brothers and how they've tried to link me to
8 them to claim I'm one of them when I can prove from the very
9 discovery that I looked at last week that the Mahons and I
10 have fundamental doctrinal differences.

11 THE COURT: Okay. The objection is overruled.

12 A I'm sorry. Can you repeat the question?

13 Q (By Mr. Kelleher) What -- when speaking to the Mahons,
14 did they indicate what role Joos played in terms of their
15 organization or their movement?

16 A Sure. He's identified as generally being in the
17 movement. As Mr. Joos was just stating, many people in the
18 movement have some varying degrees of what their cause is, if
19 you will. Like I mention that the movement is
20 anti-government, it's tax protests, but it also includes
21 things like anti-Jew, anti-black, anti-immigration, Mexican.
22 So to some degree they acknowledge that there are differences
23 between him and them; however, generally speaking, they have
24 similar ideologies.

25 THE DEFENDANT: I object to this as hearsay.

1 THE COURT: Overruled.

2 A Mr. Joos has been identified as a person who maintains a
3 large property -- referred to as a retreat a moment ago --
4 where they can go to conduct paramilitary-type training,
5 including explosives and firearms. He's been an individual
6 that's been identified as somebody who does a lot of teaching
7 for them in the past and facilitating the teaching of others
8 by allowing the use of the property and so forth.

9 Q (By Mr. Kelleher) Now --

10 THE DEFENDANT: I object to that as hearsay, Judge.
11 It should be stricken from the record. This is stuff that
12 Mahons made up. I can prove it from the records that he's got
13 that he wouldn't give me copies of.

14 THE COURT: Overruled.

15 Q (By Mr. Kelleher) Now, with regard to Mr. Joos's
16 involvement in the white supremacy movement in general,
17 during the course of --

18 THE DEFENDANT: I'm going to object. That's
19 attempting to prove guilt by association.

20 THE COURT: Overruled.

21 Q (By Mr. Kelleher) During the course of the ATF's
22 investigation of Mr. Joos, did they come across what is
23 essentially a KKK roster?

24 A Yes, like a list of individual members of the KKK, or at
25 least one of their various cells, if you will.

1 Q Was Mr. Joos identified on this roster as being a member
2 of the KKK?

3 A Yes, he was.

4 Q Was that roster taken during a search warrant executed in
5 connection with a bomb-making syndicate, if you will, back in
6 Colorado in the '80s, I believe?

7 A Yes, it was, the early '80s in Colorado; Colorado
8 Springs, Colorado.

9 Q And in terms of that bombing --

10 THE DEFENDANT: I'm going to object to that as not
11 being the actual roster. That's some kind of copy that
12 somebody's made of who knows what.

13 THE COURT: All right. Overruled.

14 Q (By Mr. Kelleher) Now, back in the '80s, in '82 there
15 was a bombing in Colorado Springs. Were you able to
16 determine that Mr. Joos lived in Colorado Springs at that
17 time?

18 A Yes.

19 Q Was he, in fact, a member of the KKK, according to the
20 documents seized from Charles Howarth's house?

21 A That's correct, he was.

22 THE DEFENDANT: I'm going to object. There's no
23 evidence that I lived there at that time. In fact, I didn't.
24 I was living in southwest Missouri in 1982. And if I had
25 known he was going to present this today, I could have had

1 witnesses here or at least got affidavits from people --
2 Dr. Smith, who I was living with down there at that time. I
3 was not living there.

4 THE COURT: Mr. Joos, the objection is overruled.
5 But I can say to you, I'm not going to sentence you today
6 based on rosters or whatever that existed in 1982.

7 Q (By Mr. Kelleher) I'll show you what's been marked as
8 Government's Exhibit 8, and if you would, can you please
9 identify that document?

10 A Yes. That's one of the two lists that I've seen that has
11 Mr. Joos' name listed in some columns to the right talking
12 about security risk, hindrance of a wife, things like that.
13 Appears to be members of the -- I can't remember if it's
14 called a -- well, the group, but Howarth being the head of
15 that particular group, Charles Howarth.

16 Q So Charles Howarth was, in fact, the -- does he actually
17 have a title?

18 A Yeah. According to the records, he would have been
19 referred to as either the Imperial Wizard or the Exalted
20 Cyclops, I think were the two titles I think that he used.

21 Q So he was a leader of the Ku Klux Klan?

22 A Yes, for the United Klan of America.

23 Q And you heard just moments ago that Special Agent
24 Farnsworth seized a document called Notice of Call to Pastor
25 executed by Charles Howarth?

1 A Yes.

2 Q Do they appear to be one in the same person?

3 A Yes.

4 MR. KELLEHER: Your Honor, I'd move to admit
5 Government's Exhibit S8.

6 THE DEFENDANT: I'm going to object to this, Your
7 Honor, because I did not have any notice of this.

8 THE COURT: I understand.

9 THE DEFENDANT: If I had, I could have got a copy of
10 the records from the McDonald County courthouse where we have
11 severed ties -- we severed ties back in the early '80s with
12 Howarth and the parent church over doctrinal differences.

13 THE COURT: Okay. The objection is overruled. The
14 exhibit's admitted.

15 Q (By Mr. Kelleher) Now, finally, in connection with your
16 investigation into Mr. -- the Mahon brothers and Mr. Joos,
17 did you also execute a search warrant at the residence of
18 Tom Metzger?

19 A I did.

20 Q And who is Tom Metzger with relation to this -- the white
21 supremacy movement?

22 THE DEFENDANT: I'm going to object again, Your
23 Honor. I don't even know Tom Metzger.

24 THE COURT: Okay. Objection is overruled.

25 A Tom Metzger is a former Ku Klux Klan Grand Dragon from

1 the state of California. He evolved during the '80s and
2 organized his own group which became the White Aryan
3 Resistance. In 2005 or '06 that group changed names to become
4 The Insurgent, which he runs out of the state of Indiana.
5 He's probably one of the most recognized leaders in the white
6 supremacist movement in the world today, certainly the top
7 three or four.

8 Q Now, in connection with this investigation did -- you
9 indicate you executed a search warrant at his house?

10 A (Nods head.)

11 Q Was there anything that you found there that directly
12 linked -- or that had a direct link to both the Mahons and
13 Mr. Joos?

14 A Yes.

15 Q And what was that?

16 A There was a videotape that was filmed on the Joos
17 property circa 1993-'94, in that era, we believe, possibly '95
18 based on the footage, depicting members of --

19 THE DEFENDANT: I object again to the relevance of
20 this, Judge.

21 THE COURT: Okay. Overruled.

22 A -- members of the WAR, or White Aryan Resistance, to
23 include Dennis Mahon and several others disguised in
24 balaclavas and so forth shooting weapons. It was -- the
25 narration by Dennis Mahon explains that it's training being

1 done, it's clearly on the Joos property where I've been on
2 more than one occasion, and -- to include some other footage
3 of the mocking of the execution of an FBI agent who's been
4 discovered by the group, you know, surveilling them.

5 MR. KELLEHER: Your Honor, I've marked that video as
6 Government's Exhibit S9. I'd ask leave of the Court to play
7 it for the Court now.

8 THE DEFENDANT: I'm going to object to that being
9 entered as relevant, Judge.

10 THE COURT: How long is the video?

11 MR. KELLEHER: It's not very long. I've cued it up
12 to a part where we can -- maybe ten minutes.

13 THE COURT: Is there any relationship to the
14 defendant here other than it's recognized to be on his
15 property?

16 MR. KELLEHER: Yes, Your Honor. I think the fact
17 that --

18 THE COURT: Is he shown in the video anywhere?

19 MR. KELLEHER: He's not.

20 THE COURT: Is he speaking anywhere in the video?

21 MR. KELLEHER: No, Your Honor. Some of the people
22 are in disguise, however, so --

23 THE COURT: Well --

24 MR. KELLEHER: But, Judge, I do think --

25 THE COURT: -- that would be speculation, right?

1 MR. KELLEHER: Judge, it would be. But, Judge, I
2 think this is incredibly relevant. This is what goes on at
3 Mr. Joos's property and for him to deny that he's not involved
4 in the white supremacist movement and he's not familiar with
5 the Mahons --

6 THE COURT: Okay. I'm going to deny your request to
7 show the video.

8 MR. KELLEHER: Note the government's objection, Your
9 Honor.

10 THE COURT: That'll be noted.

11 MR. KELLEHER: Nothing further.

12 THE COURT: All right.

13 Do you have any questions of him?

14 THE DEFENDANT: Yes.

15 CROSS-EXAMINATION

16 BY THE DEFENDANT:

17 Q What's the exact date of this video?

18 A I told you I'm not sure. Between roughly 1993 and '95.

19 Q So it's quite possible it was filmed while I was in jail,
20 because I was in jail from '94 through '97.

21 A It's possible if that's true, sir.

22 Q Okay.

23 THE COURT: All right. You can step down.

24 All right. What else does the government have?

25 MR. KELLEHER: That's it, Your Honor. Just

1 argument.

2 THE COURT: All right. Then let's hear what you got
3 to say.

4 MR. KELLEHER: The government's position is that the
5 guidelines in no way address the type of person that Mr. Joos
6 is. As we know, Mr. Joos is extraordinarily intelligent and
7 he at some point went off track, profoundly off track. He got
8 involved with the white supremacist movement in Colorado where
9 the article demonstrates that a police officer's wife was a
10 victim of a bombing. The very group that Mr. Joos was a part
11 of was suspected of perpetrating that bombing.

12 Mr. Joos has never left this community. He has
13 continually had contact with white supremacists. He has
14 continually offered his aid and support, and as you heard at
15 trial, most recently he offered his expertise in bomb building
16 to a special agent with ATF who portrayed himself as a white
17 supremacist who portrayed himself as someone who wanted to
18 cause damage to send a messages to the Canaanites; Jews.

19 Mr. Joos has for his -- or after going off the track
20 has done everything in his power to stick his thumb in the eye
21 of the government. He has shown a willingness to offer his
22 assistance to the most radical, most violent members of
23 society. He has been careful not to get caught but it's quite
24 clear that from what they have -- every time they go out to
25 that church where he's resided for the last 20-some-odd years,

1 they come away with guns and explosives.

2 Your Honor, I think in this particular case the
3 guidelines are woefully deficient in setting an appropriate
4 penalty for Mr. Joos. Woefully. The fact of the matter is,
5 he will never conform himself to the expectations of society.
6 He will never stop the violence. He continually refers to
7 this church, but it is a church of hate. That is the sole
8 basis for this church. It was formed at the direction of
9 Charles Howarth, a bigwig in the KKK. As far as I can tell,
10 the only association Mr. Joos had with Mr. Howarth was being a
11 member of that particular sect or that particular subdivision
12 of the KKK. That's how he got his start with the church. It
13 was formed with the intent to cause violence to people who
14 didn't look like Mr. Joos, who didn't worship in the same way
15 he did, and Mr. Joos has continually, continually exhibited
16 his willingness to assist in that movement. In fact, Your
17 Honor, had it not been for Mr. Joos's willingness to
18 participate in these types of activities, he wouldn't be here
19 today.

20 Mr. Joos lives on a fairly substantial tract of land
21 in a rural area in a distant corner of the state of Missouri
22 and had he not drawn attention to himself, had he not made
23 himself a suspect in the bombing of an African-American man,
24 we wouldn't be here today. But Mr. Joos was the very first
25 call the Mahon brothers called after they left a bomb in a

1 public library. Mr. Joos is an integral part of this
2 organization. And I recognize the fact that what he did to be
3 here today is simply possess guns and explosives, but I ask
4 the Court to consider why he feels the need to have this many
5 guns, 20,000 rounds of ammunition, blasting caps, fuse,
6 instructions on bomb making. I ask the Court to consider that
7 in assessing an appropriate sentence.

8 I'm asking the Court to consider the fact that
9 Mr. Joos has had adequate opportunity to turn away from this,
10 to disavow these extremists, to simply not have them on his
11 property, and he has chosen not to. He has chosen to maintain
12 this course. He has chosen to make hate his religion.

13 Your Honor, it is for those reasons the government
14 suggests that a sentence within the 15-year range is
15 appropriate to insure that Mr. Joos is no longer capable of
16 aiding and abetting the most dangerous elements of society.

17 THE COURT: All right. Well, you know --

18 THE DEFENDANT: Do I get to rebut that, Judge?

19 THE COURT: No.

20 As we've seen in this almost two-hour hearing and
21 the trial that we had, this is a case that is simply a felon
22 in possession of firearms and explosive materials. Now,
23 there's no question that the defendant is on the fringe of a
24 lot of unsavory characters and bad behavior.

25 THE DEFENDANT: Sir, may I just --

1 THE COURT: No. Just listen to me, Mr. Joos. I'm
2 telling you what my sentence is going to be. And if you'll
3 just listen, I'm giving you the benefit of the doubt on some
4 things as well.

5 And as tempting as it would be to put Mr. Joos away
6 forever -- 15 years as the government says -- in all fairness
7 I can't do that, not the way I see this case. Because, yes,
8 Coombs, Joos, arrest, those circumstances certainly raise a
9 lot of innuendo towards you, Mr. Joos.

10 THE DEFENDANT: Yes, sir, but I can refute that with
11 the evidence.

12 THE COURT: Just sit down and listen to me.

13 You weren't charged. There's no conviction. You
14 were in jail, which is about as good an alibi as far as you
15 doing it as a person could have. And while I can look at that
16 and say it certainly seems like there ought to be fire where
17 there's smoke, but sentencing you is something that I have to
18 be careful to not let emotion get involved with the facts that
19 I have before me.

20 Now, the fact he's got swastikas and KKK
21 paraphernalia on his wall, that's not a crime. The fact that
22 he talks the talk with these guys and has beliefs that might
23 be an affront to society are protected by our free speech, so
24 I hope everybody here remembers that. And that's something
25 that I have to consider when it comes time, as it is right

1 now, for me to sentence Mr. Joos.

2 Now, what I do see in this case is a serious crime
3 and I told you about that at the start and that's the number
4 of weapons and the extreme amount of ammunition. And the
5 fringe activity with the Mahons and bomb making certainly are
6 cause for concern. And you, Mr. Joos, certainly seem to have
7 a strong history of disrespect for the law. Now, you say you
8 believe different but that's not an excuse.

9 THE DEFENDANT: Don't I get allocution here, Judge?

10 THE COURT: You've had it.

11 Now, the -- looking at the guidelines, I think the
12 guidelines are a reasonable range for you. And I know the
13 government says it doesn't reflect the seriousness of the
14 conduct. If Mr. Joos had a lawyer instead of representing
15 himself, his lawyer would probably be pointing out that the
16 criminal history of four is possibly overstated because it
17 deals with not having a driver's license on much of the
18 offense which is not of the level of a lot of other things
19 that Mr. Joos is involved in but that's what his criminal
20 history is based on. But all things considered, I think the
21 guideline range is reasonable. I think there is a need to
22 deter future conduct. I think there's a need to protect the
23 public.

24 So, Mr. Joos, I'm going to sentence you --

25 THE DEFENDANT: I'm going to object at this time,

1 Judge.

2 THE COURT: You don't get to --

3 THE DEFENDANT: You're assuming facts not in
4 evidence. I can take his discovery and prove --

5 THE COURT: Mr. Joos --

6 THE DEFENDANT: -- that what he said in closing
7 was -- those are lies.

8 THE COURT: -- just sit down and listen. This is
9 your sentence. Whatever is said from now on, you don't get to
10 object to any more. You can take it up on appeal. Okay?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you might think a little bit about
13 whether or not I'm being fair with you or if I maybe could
14 have sentenced you according to the motion here which would be
15 a heck of a lot more than what you're about to get. Do you
16 understand?

17 THE DEFENDANT: I can prove that --

18 THE COURT: I --

19 THE DEFENDANT: -- what he said -- you're assuming
20 facts not in evidence, Judge. You're going on the lies he
21 told you --

22 THE COURT: You're not listening to me.

23 THE DEFENDANT: -- which in his own discovery I can
24 prove are lies.

25 THE COURT: You're not listening to me. If I assume

1 the facts not in evidence, you'd be looking at a huge sentence
2 here. I'm going to sentence you to the 78 months which is the
3 high end of the guideline. So stand up, Mr. Joos.

4 It is the judgment of the Court that the defendant,
5 Robert Joos, is hereby committed to the custody of the Bureau
6 of Prisons for 78 months on each of Counts 1 and 2 of the
7 indictment to be served concurrently. Upon release from
8 imprisonment you shall be placed on supervised release for
9 three years. This consists of three years on each of Counts 1
10 and 2. They'll run concurrently. The Court finds you do not
11 have the ability to pay a fine, the fine is waived. It's
12 further ordered that you shall pay to the United States a
13 special assessment of \$100 on each of Counts 1 and 2 for a
14 total of \$200 which shall be due immediately.

15 As to the forfeiture allegation, now, I was going to
16 finalize that but -- are you able, Mr. Kelleher, to speak on
17 forfeiture? I know that's a different U.S. Attorney but -- he
18 has filed a motion here. He really should have filed a claim
19 in regard to the forfeiture. Is there any reason why I can't
20 leave that open for 30 more days for a claim to be filed if
21 it's going to be filed and make it final at that time?

22 MR. KELLEHER: That, I don't know, but I suspect --

23 THE COURT: I think I have --

24 MR. KELLEHER: I think there's been publication and
25 I believe we've gone through all the necessary steps.

1 THE COURT: It's been gone through.

2 I'm going to leave it open for 30 days, Mr. Joos.

3 You don't file it with me. You file your claim in regard to
4 the notice that's been given out in regard to the forfeiture.
5 There's a preliminary order of forfeiture. It'll be made
6 final in 30 days unless you prove somebody else has a claim
7 for it.

8 THE DEFENDANT: Under the same case number?

9 THE COURT: We will provide you a copy of the
10 notice. My clerk will make sure we do that. Not right now.

11 THE DEFENDANT: Sir?

12 THE COURT: You'll be provided a copy of the notice.
13 You'll need to respond to it.

14 THE DEFENDANT: Okay.

15 THE COURT: I'm giving you a break here. It's not
16 you. You don't get to claim -- it's being forfeited from you.
17 But if this church is a different organization and it's going
18 to make a claim, then it can do it.

19 Now, be careful what you ask for, be careful what
20 you file. I'll just tell you that. Okay?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You be sure you don't get yourself in
23 deeper with false claims or something if that's what you start
24 doing. You understand me?

25 THE DEFENDANT: No, it's a legitimate church. We've

1 got all of our paperwork filed at the county courthouse.

2 THE COURT: You'll have 30 days to file it in the
3 proper manner.

4 All right. And it may be we can take your motion
5 and file it for you in that matter and that'll count, but
6 we'll let you know.

7 Now, while on supervised release you shall comply
8 with the mandatory and standard conditions that have been
9 adopted by this Court. In addition, you shall comply with the
10 following special conditions: You shall submit your person,
11 residence, office or vehicle to a search conducted by a U.S.
12 probation officer at a reasonable time, in a reasonable
13 manner, based upon reasonable suspicion of contraband or
14 evidence of a violation of a condition of release. Failure to
15 submit to a search may be grounds for revocation. You shall
16 warn any other residents that the premises may be subject to
17 searches pursuant to this condition. And it's ordered that
18 you be remanded to custody for service of the sentence
19 imposed.

20 Now, you have a right to appeal. You've already
21 told me you want to appeal; is that right?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you want my clerk to file your notice
24 of appeal?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. Your notice of appeal will
2 be filed. You have 14 days to file it but I'm telling you we
3 will get it filed within the next few days.

4 THE DEFENDANT: Yes, sir. Since I don't have
5 counsel, I'd like to also request the Court to inform me if
6 there's any other things I need to file before the notice of
7 appeal is filed.

8 THE COURT: We're going to file a notice of appeal.
9 That's all I'm dealing with. If there's anything else you
10 want to file, you have to deal with that.

11 In regard to his post-trial file, Mr. Johnson, can
12 you get him the file he's entitled to for his appeal?

13 MR. JOHNSON: Yes, sir, Your Honor, but it's in the
14 possession of the U.S. Attorneys. Deliver the entire file
15 over there.

16 THE COURT: Between the two of you, get back to him
17 what he's entitled to for the appeal.

18 MR. KELLEHER: The difficulty here is logistically
19 speaking, I don't know if Mr. Joos will -- if I delivered it
20 to him at the county jail, I don't know if the Bureau of
21 Prisons would let him take it to wherever he's going.

22 THE COURT: I'm saying he's entitled to have
23 something to do his appeal with. I'm asking counsel -- this
24 is not the first case that's gone up on appeal. So let's get
25 it --

1 MR. KELLEHER: I understand that, but it may very
2 well be the first case I've dealt with where the defendant has
3 represented himself.

4 THE COURT: I know. But other people in your office
5 have dealt with it. We can sort this out. I'm just asking
6 that you get it done. He's going to represent himself.

7 MR. KELLEHER: I will. Your Honor, is Mr. Joos
8 representing himself on appeal? Is that his desire?

9 THE COURT: Yes, at this point he is.

10 THE DEFENDANT: Yes, sir. And, sir, I don't need
11 3500 pages, just the pages I put in my --

12 THE COURT: They're going to be working on it.

13 THE DEFENDANT: -- in my motion.

14 THE COURT: All right. You all work it out.

15 THE DEFENDANT: Sir, did I give you that? It's a
16 three-page motion that has all the pages listed. Did I give
17 that to you?

18 THE COURT: On the forfeiture?

19 THE DEFENDANT: No, no, it was a different one.
20 This is the one for today for postponing this hearing.

21 THE COURT: I've already denied that, Mr. Joos.

22 THE DEFENDANT: Yeah, I know, but --

23 MR. KELLEHER: Judge, if I may, this might make it
24 easier for the government to comply because literally we have
25 a box of documents that -- and if Mr. Joos only needs a

1 limited amount of documentation, it will be infinitely easier
2 for me to give him 100 pages rather than 3,000 pages.

3 THE COURT: Here's what we're going to do.

4 Mr. Joos, listen to me. If there's something you
5 want to get to the government to reflect that, get it to them.
6 I'm done today. Okay?

7 Does the government have anything else for the
8 record?

9 MR. KELLEHER: No, Your Honor.

10 THE DEFENDANT: This is a motion for the Court, sir,
11 that he should get a copy of but I need it filed in court to
12 show what I wanted today for the hearing.

13 THE COURT: I've ruled on everything you've asked me
14 about already. This I thought you said was to --

15 THE DEFENDANT: This is the motion today to get
16 that -- I was -- this is today's motion that I argued but I
17 didn't give you the copy of it.

18 THE COURT: Give Karen a copy of it.

19 THE DEFENDANT: Everything's not in there which I
20 need --

21 THE COURT: Give her a copy of it.

22 THE DEFENDANT: -- to make my record on appeal, sir.

23 MR. JOHNSON: Your Honor, I would like to make an
24 oral motion to withdraw from this case.

25 THE COURT: All right. That will be sustained.

1 THE DEFENDANT: Sir, I'd also like to make a motion
2 to be put in a prison where I can get medical treatment and
3 close enough to southwest Missouri where maybe somebody can
4 visit me. I heard that the Court can make a recommendation on
5 prison.

6 THE COURT: No. That may be true, but for the
7 record I'm not going to direct the Bureau of Prisons where to
8 place you. They have several considerations to make, security
9 risk, medical needs, various things. You let them know.
10 They'll make the decision. I'm not going to tell them.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right.

13 (Proceedings concluded at 10:41 a.m.)
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CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Date

Jeannine M. Rankin, CCR, CSR, RPR